रजिस्ट्री सं० डी एल (एन) 04/0007/2003—05

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भारत का राजपत्र
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सं. 12] नई दिल्ली, मार्च 14—मार्च 20, 2004, शनिवार/फाल्गुन 24—फाल्गुन 30, 1925
No. 12] NEW DELHI, MARCH 14—MARCH 20, 2004, SATURDAY/PHALGUNA 24—PHALGUNA 30, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 5 मार्च, 2004

का. आ. 640.— केंद्रीय सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय अन्वेषण ब्यूरो के रिटेनर काउंसेल श्री अशोक हरनाहल्ली, अधिवक्ता, बंगलौर को कर्नाटक उच्च न्यायालय, बंगलौर में दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषित मामलों से उद्भूत अभियोजन, अपीलों, पुनरीक्षणों और अन्य कार्यवाहियों का संचालन करने के लिए कर्नाटक उच्च न्यायालय में विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/19/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

CABINET SECRETARIAT

New Delhi, the 5th March, 2004

S. O. 640.— In exercise of the powers conferred by Sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Ashok Haranahalli, Advocate, Bangalore a Retainer Counsel of Central Bureau of Investigation, in the Karnataka High Court as Special Public Prosecutor for conducting prosecution, appeals, revisions or other proceedings arising out of the cases investigated by the Delhi Special Police Establishment in the Karnataka High Court at Bangalore.

[No. 225/19/2003-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 5 मार्च, 2004

का. आ. 641.— केंद्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 सपठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बिहार राज्य सरकार के गृह विभाग, राजनीतिक शाखा की अधिसूचना सं. 1/सीबीआई. 80-41/2003-11564 दिनांक 03-12-2003 द्वारा प्राप्त बिहार राज्य सरकार की सहमति से बिहार राज्य में पंजीकृत मामलों यथा अपराध सं. 505 दिनांक 09-11-2003 पटना कोतवाली पुलिस

745 GI/2003

थाना में भारतीय दंड संहिता की धारा 255, 256, 257, 258, 259, 260, 467, 468, 469, 471, 480-ए, 489-सी, 489-डी, 489-ई, 414, 420 एवं आर्मस अधिनियम, 25 (1-बी) (1-ए), 26, 35 एवं अन्य अपराधों तथा उपर्युक्त एक अथवा एक से अधिक अपराधों से संबंधित अथवा संसक्त प्रयत्न, दुष्प्रेरणों और षड्यंत्रों तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य एक अथवा अधिक अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण बिहार राज्य पर करती है।

[सं. 228/107/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 5th March, 2004

S. O. 641.— In exercise of the powers conferred by Sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946, (Act No. 25 of 1946), the Central Government with the consent of the State Government of Bihar, Home Department, Political Branch vide Notification No. 1/CBI/80-41/2003-11564 dated 3-12-2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Bihar for investigation of Patna Kotwali Police Station Case No. 505 dated 9th November, 2003 under Sections 255, 256, 257, 258, 259, 260, 467, 468, 469, 471 489-A, 489-C, 489-D, 489-E, 414, 420 IPC and 25 (1-B), (1-A), 26, 35 Arms Act and any other offence, attempt, abetment and conspiracy in connection with the said offences committed in the course of the same transaction or arising out of the same facts in relation to the aforesaid case.

[No. 228/107/2003-DSPE]

SHUBHA THAKUR Under Secy.

नई दिल्ली, 5 मार्च, 2004

का. आ. 642.— केंद्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 7 पीसीआर-2004 दिनांक 29 जनवरी, 2004 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री एच.एच. रामप्पा पुत्र श्री एच. हनुमप्पा, प्रबंधक, स्टेट बैंक ऑफ मैसूर, कवेलबाईरासंद्रा ब्रांच बंगलौर और किसी अन्य लोकसेवक अथवा व्यक्ति के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 7 और धारा 13 (2) सपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षड्यंत्रों तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/13/2004-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 5th March, 2004

S. O. 642.— In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946, (Act No. 25 of 1946), the Central Government with the consent of State Government of Karnataka vide Notification No. HD 7 PCR-2004 dated 29th January, 2004 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences, against Shri H.H. Ramappa son of Shri H. Hanumappa, Manager, State Bank of Mysore, Kavelbyrasanda Branch, Bangalore and any other public servant or person punishable under Section 7 and under Section 13 (2) read with 13 (1) (d) Prevention of Corruption Act 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offences mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/13/2004-DSPE]

SHUBHA THAKUR, Under Secy.

गृह मंत्रालय

नई दिल्ली, 11 मार्च, 2004

का. आ. 643.— केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालयों में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80% से अधिक हो जाने के फलस्वरूप उन्हें एतद्द्वारा अधिसूचित करती है।

1. **कार्यालय पुलिस उपमहानिरीक्षक, केन्द्रीय रिजर्व पुलिस बल, पुणे (महाराष्ट्र)**
2. **कार्यालय कमांडेंट-145, केन्द्रीय रिजर्व पुलिस बल।**

[सं. 12017/1/2004-हिन्दी]

राजेन्द्र सिंह, निदेशक (राजभाषा)

MINISTRY OF HOME AFFAIRS

New Delhi, the 11th March, 2004

S. O. 643.—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Ministry of Home Affairs where the percentage of Hindi knowing staff has gone above 80%.

1. **Office of the Dy. Inspector General of Police, Central Reserve Police Force, Pune (Maharashtra).**
2. **Office of the Commandant-145 Battalion, Central Reserve Police Force,**

[No. 12017/1/2004-Hindi]

RAJENDRA SINGH, Director (OL)

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 4 मार्च, 2004

(आयकर)

का. आ. 644.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ "संघ" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

(i) अधिसूचित संगठन अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी ;

(ii) अधिसूचित संगठन प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग, 'टेक्नालॉजी भवन', न्यू महरौली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा ;

(iii) अधिसूचित संगठन केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट), 10 मिडिलटन रो, पांचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्तूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	निम्बकार एग्रीकलचरल रिसर्च इन्स्टीटयूट, फालटन-लोनन्द रोड, नियर दुध संघ, तम्बमाल, फालटन-415523	1-4-2003 से 31-3-2006

टिप्पणी :—(i) उपरोक्त शर्त (i) "संघ" के रूप में श्रेणीबद्ध संगठन पर लागू नहीं होगी।

(ii) अधिसूचित संगठन को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 66/2004/फा. सं. 203/11/2004-आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

MINISTRY OF FINANCE

(Department of Revenue)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 4th March, 2004

(INCOME TAX)

S. O. 644.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Association" subject to the following conditions :—

(i) The notified organisation shall maintain separate books of accounts for its research activities;

(ii) The notified organisation shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified organisation shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which notification is effective
1.	Nimbkar Agricultural Research Institute, Phaltan-Lonand Road, Near Dudh Sangh, Tambmal, Phaltan-415523	1-4-2003 to 31-3-2006

Notes: (i) Condition (i) above will not apply to the organisation categorized as "Association".

(ii) The notified organisation is advised to apply in triplicates as well in advance for further renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for reneval of approval should also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 66/2004/F. No. 203/11/2004-ITA-II]

SANGEETA GUPTA, Director (ITA-II)

मुख्य आयुक्त सीमा शुल्क का कार्यालय (निवारक)

चेन्नै, 5 मार्च, 2004

सं. 1/2004 सीशु (एनटी)

का. आ. 645.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के दिनांक 1-7-1994 की अधिसूचना सं. 33/94-सीशु (एन.टी.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं., के. परसुरामन, मुख्य आयुक्त सीमा शुल्क (निवारक), चेन्नै, एतद्द्वारा तमिल नाडु राज्य के वेलूर जिले में अरक्कोणम तालुक के मेल्पाक्कम गाँव को सीमा शुल्क अधिनियम, 1962 (1962 की सं. 52) की धारा 9 के तहत भाण्डागारण स्टेशन घोषित करता हूं।

[फा.सं. VIII/2/1/2004-मुआ (निवा.)]

के. परसुरामन, मुख्य आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF CUSTOMS (PREVENTIVE)

Chennai, the 5th March, 2004

NO. 1/2004 CUS(NT)

S. O. 645.—In exercise of the powers conferred by Notification No. 33/94-Cus. (N.T.), dated 1-7-1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I, K. Parasuraman, Chief Commissioner of Customs (Preventive), Chennai hereby declare Melpakkam Village of Arakkonam Taluk, Vellore District, Tamil Nadu State, to be a warehousing station under Section 9 of the Customs Act, 1962 (No. 52 of 1962).

[F. No. VIII/2/1/2004-CC(Prev.)]

K. PARASURAMAN, Chief Commissioner

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

आदेश

नई दिल्ली, 9 मार्च, 2004

का. आ. 646.—सरकार ने यह निर्णय लिया है कि श्री वी.के. चोपड़ा, अध्यक्ष एवं प्रबंध निदेशक, भारतीय लघु उद्योग विकास बैंक तत्काल प्रभाव से तीन महीने की अवधि के लिए या अगले आदेशों तक या पंजाब एंड सिंध बैंक के नियमित अध्यक्ष एवं प्रबंध निदेशक/कार्यपालक निदेशक की नियुक्ति होने तक, जो भी पहले हो, अपने कार्यों के साथ-साथ पंजाब एंड सिंध बैंक के अध्यक्ष एवं प्रबंध निदेशक के पद का अतिरिक्त प्रभार भी पूर्णरूपेण संभालेंगे।

[फा. सं. 20/7/99-बीओ-I]

रमेश चन्द, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

ORDER

New Delhi, the 9th March, 2004

S. O. 646.—Government have decided that Shri V.K. Chopra, Chairman and Managing Director, Small Industries Development Bank of India, will hold full additional charge of the post of Chairman and Managing Director, Punjab & Sind Bank, in addition to his own duties, with immediate effect for a period of three months or until further orders, or until appointment of regular CMD/ED in Punjab & Sind Bank, whichever is earlier.

[F. No. 20/7/99-B.O.-I]

RAMESH CHAND, Under Secy.

नई दिल्ली, 11 मार्च, 2004

का. आ. 647.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, आईसीआईसीआई बैंक लि. को तीन वर्ष की अवधि के लिए अपतटीय बैंकिंग एकक/एककों के संबंध में बैंककारी विनियमन अधिनियम, 1949 की धारा 24 की उपधारा (2क) के उपबंधों से छूट देती है।

[फा. सं. 15/17/2003-बीओए]

डी. पी. भारद्वाज, अवर सचिव

New Delhi, the 11th March, 2004

S. O. 647.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government, on the recommendation of Reserve Bank of India, hereby exempts ICICI Bank Ltd. from the provisions of Sub-section (2A) of Section 24 of the Banking Regulation Act, 1949 in respect of their Offshore Banking Unit(s) for a period of three years.

[F. No. 15/17/2003-BOA]

D. P. BHARDWAJ, Under Secy.

संचार एवं सूचना प्रौद्योगिकी मंत्रालय

(डाक विभाग)

डाक जीवन बीमा निदेशालय

शुद्धिपत्र

नई दिल्ली, 10 मार्च, 2004

का. आ. 648.—सं. 5-2/2003-2004 एलआई दिनांक 07-11-2003 के जरिए जारी अधिसूचना में क्रम सं. 2 पर निम्नलिखित पैरा अन्त: स्थापित किया जाए और उसके पैरा 2 एवं 3 को पैरा 3 एवं 4 माना जाए।

2. "01-04-1999 से 31-12-2003 तक की अवधि के दौरान इन पालिसियों के लिए परिपक्वता या मृत्यु की वजह से उत्पन्न हुए सभी दावों के लिए भी ऊपर उल्लिखित दर पर अंतरिम बोनस देय होगा जिनके लिए प्रीमियम अदा कर दिए गए हों और 01-4-1999 से 31-12-2003 तक की अवधि (01-04-1999 को या इसके बाद जारी पालिसियों के संदर्भ में बीमा के प्रथम पालिसी वर्ष के सहित) के दौरान इनकी प्रविष्टि कर दी गई हो।"

[सं. 5-2/2003-2004/एलआई]

वी. पती, अपर महाप्रबंधक (डाक जीवन बीमा)

MINISTRY OF COMMUNICATIONS AND IT

(Department of Posts)

DIRECTORATE OF PLI

CORRIGENDUM

New Delhi, the 10th March, 2004

S. O. 648.—In the Notification issued vide No. 5-2/2003-LI dated 07-11-2003, the following paragraph may be inserted at No. 2 and paragraph 2 & 3 thereof be treated as paragraph 3 &4.

2. "Interim Bonus at the rate mentioned above will also be payable for all claims arising due to maturity or death during the period from 01-04-1999 to 31-12-2003 for policies for which premium have been paid and entered upon during the period 01-04-1999 to 31-12-2003 (including first policy year of assurance in respect of policies issued on or after 01-04-1999)".

[No. 5-2/2003-04/LI]

V. PATI, Addl. General Manager

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 9 मार्च, 2004

का. आ. 649.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में राष्ट्रीय फिल्म संग्रहालय, लॉ कॉलेज रोड़, पुणे-411004, सूचना और प्रसारण मंत्रालय जिसके 80% से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

[संख्या ई-11017/4/2002-हिन्दी]

समय सिंह कटारिया, निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 9th March, 2004

S. O. 649.— In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (use for Official Purposes of the Union) Rule, 1976, the Central Government hereby notifies National Film Archives of India, Law College Road, Pune-411004 (Ministry of Information and Broadcasting), more than 80% of the staff whereof have acquired the working knowledge of Hindi.

[F. No. E-11017/4/2002-Hindi]

S. S. KATARIA, Director (O.L.)

विद्युत मंत्रालय

नई दिल्ली, 9 मार्च, 2004

का. आ. 650.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में पावरग्रिड कारपोरेशन ऑफ इंडिया लि., गुड़गांव तथा नैशनल हाइड्रोइलैक्ट्रिक पावर कारपोरेशन लिमिटेड, फरीदाबाद के नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिसके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित करती है :

1. पावरग्रिड कारपोरेशन ऑफ इंडिया लि.,
   400/220 के.वी. उप केन्द्र,
   चकरपुर,
   कानपुर-209305
2. नैशनल हाइड्रोइलैक्ट्रिक पावर कारपोरेशन लि.,
   रंगित हाइडल पावर स्टेशन,
   रंगित नगर,
   दक्षिण सिक्किम-737111

[सं. 11017/1/2004-हिंदी]

अजय शंकर, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 9th March, 2004

S. O. 650.— In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (use for Official Purposes of the Union) Rule, 1976, the Central Government hereby notifies the following offices of Public Sector Undertakings under the administrative control of Powergrid Corporation of India Ltd., Gurgaon and National Hydroelectric Power Corporation Ltd., Faridabad the staff whereof have acquired 80% working knowledge of Hindi :

1. Powergrid Corporation of India Ltd.,
400/220 KV Substation,
Chakarpur,
Kanpur-209305.

2. National Hydroelectric Power Corporation Ltd.,
Rangit Hydel Power Station,
Rangit Nagar,
South Sikkim-737111.

[No. 11017/1/2004-Hindi]

AJAY SHANKAR, Jt. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 5 मार्च, 2004

का. आ. 651.— भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु कराची यूनिवर्सिटी द्वारा प्रदत्त चिकित्सा अर्हता एम.बी.बी.एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. राज कुमार, जिनके पास उक्त अर्हता है, गुजरात अनुसंधान एवं चिकित्सा संस्थान, कैम्प रोड, शाहीबाग अहमदाबाद-380004 से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. राज कुमार द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) फरवरी, 2004 से आगे एक वर्ष की अवधि; अथवा

(ख) उस अवधि जिसके दौरान डा. राजकुमार, गुजरात अनुसंधान एवं चिकित्सा संस्थान, कैम्प रोड, शाहीबाद अहमदाबाद-380004 से जुड़े हैं, जो भी कम हो, तक सीमित रहेगी।

[संख्या वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 5th March, 2004

S. O. 651.—Whereas medical qualification MBBS granted by Karachi University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Raj Kumar, who possess the said qualification is attached to the Gujarat Research and Medical Institute, Camp Road, Shahibag, Ahmedabad-380004 for the purpose of chairatable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Raj Kumar in India shall be limited to :—

(a) a period of one year from February 2004 onwards; or

(b) the period during which Dr. Raj Kumar is attached to The Gujarat Research and Medical Institute, Camp Road, Shahibag, Ahmedabad-380004, whichever is shorter.

[No. V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 5 मार्च, 2004

का. आ. 652.— भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु मद्रास विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम.बी.बी.एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. वरदाचारी चन्द्रा, जिनके पास उक्त अर्हता है, श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम-515134 अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. वरदाचारी चन्द्रा द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) 1-1-2004 से आगे छह माह की अवधि; अथवा

(ख) उस अवधि जिसके दौरान डा. वरदाचारी चन्द्रा, श्री सत्य साई जनरल अस्पताल, प्रशान्तिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़े हैं, जो भी कम हो, तक सीमित रहेगी।

[संख्या वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, the 5th March, 2004

S. O. 652.—Whereas medical qualification MBBS granted by Madras University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act,

And whereas Dr. Varadachari Chandra, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam-515134, Ananthapur Distt., (A.P.), for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of subsection (1) of the Section 14 of the said Act, the Central

Government hereby specifies that the period of practice of medicine by Dr. Varadachari Chandra, in India shall be limited to :—

(a) a period of six months from 1-1-2004 onwards; or

(b) the period during which Dr. Varadachari Chandra is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam, Ananthapur Distt. (A.P.), whichever is shorter.

[No. V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 5 मार्च, 2004

का. आ. 653.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु लंदन यूनिवर्सिटी द्वारा प्रदत्त चिकित्सा अर्हता एम.बी.बी.एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. निवेदिता सिंह, जिनके पास उक्त अर्हता है श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम-515134 अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़ी हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. निवेदिता सिंह द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) 1-1-2004 से आगे छह माह की अवधि; अथवा

(ख) उस अवधि जिसके दौरान डा. निवेदिता सिंह, श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़ी हैं, जो भी कम हो, तक सीमित रहेगी।

[संख्या वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, the 5th March, 2004

S. O. 653.—Whereas medical qualification MBBS granted by University of London is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Navedita Singh, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam-515134, Ananthapur Distt. (A.P.), for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Nivedita Singh, in India shall be limited to :—

(a) a period of six months from 1-1-2004 onwards; or

(b) the period during which Dr. Nivedita Singh is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam, Ananthapur Distt. (A.P.), whichever is shorter.

[No. V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 5 मार्च, 2004

का. आ. 654.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु बंगलौर विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम.बी.बी.एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. वसुंधरा आयंगर, जिनके पास उक्त अर्हता है, श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम-515134 अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जड़ी हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. वसुंधरा आयंगर द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) 1-1-2004 से आगे छह माह की अवधि; अथवा

(ख) उस अवधि जिसके दौरान डा. वसुंधरा आयंगर, श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़ी हैं, जो भी कम हो, तक सीमित रहेगी।

[संख्या वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, the 5th March, 2004

S. O. 654.—Whereas medical qualification MBBS granted by Bangalore University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Vasundhara Iyengar, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam-515134, Ananthapur Distt. (A.P.), for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Vasundhara Iyengar, in India shall be limited to :—

(a) a period of six months from 1-1-2004 onwards; or

(b) the period during which Dr. Vasundhara Iyengar is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam, Ananthapur Distt. (A.P.), whichever is shorter.

[No. V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 5 मार्च, 2004

का. आ. 655.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु मद्रास विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम.बी.बी.एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. वरदाचारी रंगासामी, जिनके पास उक्त अर्हता है, श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम-515134 अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. वरदाचारी रंगासामी द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह तक की अवधि: अथवा

(ख) उस अवधि जिसके दौरान डा. वरदाचारी रंगासामी, श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुडे हैं, जो भी कम हो, तक सीमित रहेगी।

[संख्या वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, the 5th March, 2004

S. O. 655.—Whereas medical qualification MBBS granted by Madras University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Varadachari Rangasami, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam-515134, Ananthapur Distt. (A.P.), for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Varadachari Rangasami in India shall be limited to :—

(a) a period of six months from the date of issue of this notification.

(b) the period during which Dr. Varadachari Rangasami is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam, Ananthapur Distt. (A.P.), whichever is shorter.

[No. V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 5 मार्च, 2004

का. आ. 656.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु मैसूर विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम.बी.बी.एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. रामप्रकाश हरपनहल्ली नरसिम्हैया, जिनके पास उक्त अर्हता है, श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम-515134 अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. रामप्रकाश हरपनहल्ली नरसिम्हैया द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) 1-1-2004 से 1-1-2005 तक एक वर्ष की अवधि; अथवा

(ख) उस अवधि जिसके दौरान डा. रामप्रकाश हरपनहल्ली नरसिम्हैया, श्री सत्य साई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुडे हैं, जो भी कम हो, तक सीमित रहेगी।

[संख्या वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, the 5th March, 2004

S. O. 656.—Whereas medical qualification MBBS granted by Mysore University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Ramaprakash Harapanahalli Narasimhaiah, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam-515134, Ananthapur Distt. (A.P.), for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Ramaprakash Harapanahalli Narasimhaiah in India shall be limited to :—

(a) a period of one year from 1-1-2004 to 1-1-2005; or

(b) the period during which Dr. Ramaprakash Harapanahalli Narasimhaiah is attached to Sri Sathya Sai General Hospital, Prasanthi Nilayam, Ananthapur Distt., (A.P.), whichever is shorter.

[No. V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

रसायन और उर्वरक मंत्रालय

(उर्वरक विभाग)

शुद्धि पत्र

नई दिल्ली, 5 मार्च, 2004

का. आ. 657.—भारत सरकार रसायन और उर्वरक मंत्रालय की दिनांक 17 जनवरी, 2002 की अधिसूचना सं. का. आ.सं. 258 दिनांक 2 फरवरी, 2002 भारत के राजपत्र के भाग-II, खण्ड-3 उप खण्ड (ii) की पृष्ठ सं. 834 की अनुसूची के स्तंभ (i) में प्रकाशित "मुख्य प्रशासनिक अधिकारी" को "मुख्य प्रशासनिक प्रबंधक" पढ़ा जाए।

[फा. सं. 82/4/2001-मा.सं.-I]

ए. पी. सिंह, निदेशक

MINISTRY OF CHEMICALS AND FERTILIZERS

(Department of Fertilizers)

CORRIGENDA

New Delhi, the 5th March, 2004

S. O. 657.—In the notification of the Government of India in the Ministry of Chemicals & Fertilizers No. S.O. 258 dated the 17th January, 2002, published in the Gazette of India in Part II, Section 3, Sub-section (ii), dated the 2nd February, 2002, at page 834, in the Schedule, in column (1), for "Chief Administrative Officer", read "Chief Administrative Manager".

[F. No. 82/4/2001-HR-I]

A. P. SINGH, Director

वस्त्र मंत्रालय

नई दिल्ली, 8 मार्च, 2004

का. आ. 658.—केन्द्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61) की धारा 4 की उप-धारा (6)(ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा श्री के. एस. ईश्वरप्पा द्वारा केन्द्रीय रेशम बोर्ड के अध्यक्ष के पद से दिए गए त्याग-पत्र को 28-02-2004 (अपराह्न) से स्वीकार करती है। परिणामस्वरूप यह माना जाएगा कि उन्होंने उस तारीख से अपना पद रिक्त कर दिया है।

[फा. सं. 25012/67/99-सिल्क]

किरन धींगरा, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 8th March, 2004

S. O. 658.—In exercise of the powers conferred by Sub-Section (6)(b) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby accepts the resignation tendered by Shri K. S. Eshwarappa from the post of Chairman, Central Silk Board with effect from 28-02-2004 (AN). Consequently, he is deemed to have vacated his office with effect from that date.

[F. No.25012/67/99-Silk]

KIRAN DHINGRA, Jt. Secy.

कोयला मंत्रालय

नई दिल्ली, 10 मार्च, 2004

का. आ. 659.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है।

अतः अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अंतर्गत आने वाले रेखांक सं. एस.ई.सी.एल./बी.एस.पी./जीएम पीएलजी/भूमि/283 तारीख 30 दिसंबर, 2003 का निरीक्षण कलेक्टर शहडोल (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक 1 काउंसिल हाउसस्ट्रीट, कोलकाता 700 001 के कार्यालय में या साउथ ईस्टर्न कोल फील्डस लिमिटेड (राजस्व अनुभाग) सीपत रोड बिलासपुर 495006 (छत्तीस गढ) के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में, हितबद्ध सभी व्यक्ति, उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व) साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड़, बिलासपुर 495006 (छत्तीसगढ) को भेजेंगे।

अनुसूची

सिंहपुर खंड, सोहागपुर क्षेत्र

जिला-शहडोल (मध्य प्रदेश)

रेखांक संख्या-एसईसीएल/बीएसपी/जीएम (पीएलजी) भूमि/283, तारीख 30 दिसम्बर, 2003 (पूर्वेक्षण के लिए अधिसूचित भूमि दर्शाते हुए)

क्रम संख्या	ग्राम का नाम	पटवारी हल्का नम्बर	तहसील	जिला	क्षेत्र हैक्टर में	टिप्पणियां
01	सिहंपुर	21	सोहागपुर	शहडोल	1377.903	संपूर्ण
02	पडमनिया खुर्द	21	सोहागपुर	शहडोल	328.238	संपूर्ण
03	ऐंताझर	21	सोहागपुर	शहडोल	565.391	संपूर्ण
04	जोधपुर	22	सोहागपुर	शहडोल	791.793	संपूर्ण
05	चदनिया	22	सोहागपुर	शहडोल	150.340	संपूर्ण
06	उरहा	23	सोहागपुर	शहडोल	95.000	संपूर्ण
07	दुधी	23	सोहागपुर	शहडोल	579.977	संपूर्ण
08	पडरिया	24	सोहागपुर	शहडोल	395.013	संपूर्ण
09	पडमनिया कला	24	सोहागपुर	शहडोल	295.422	भाग
10	नरगी	24	सोहागपुर	शहडोल	389.589	संपूर्ण

योग—4968.666 हेक्टर (लगभग) या 12277.57 एकड़ (लगभग)

सीमा वर्णन :—

क-ख रेखा ग्राम चंदनिया की सीमापर बिन्दु ''क'' से आरम्भ होती है और ग्राम चंदनिया, जोधपुर, दुधी, उरहा की पश्चिमी सीमा के साथ गुजरती है और बिन्दु ''ख'' पर मिलती है।

ख-ग रेखा ग्राम उरहा, पडमनिया कला से होकर ग्राम नरगी की उत्तरी सीमा के साथ गुजरती है और बिन्दु ''ग'' पर मिलती है।

ग-घ रेखा ग्राम नरगी, पडरिया, की पूर्वी सीमा के साथ गुजरती है और बिन्दु ''घ'' पर मिलती है।

घ-क रेखा ग्राम पडरिया, सिंहपुर की दक्षिण सीमा के साथ ग्राम जोधपुर चंदनिया की पूर्वी सीमा के साथ गुजरती है और बाद में ग्राम चंदनिया से होकर आरंभिक बिन्दु ''क'' पर मिलती है।

[फा. सं. 43015/8/2004-पी.आर.आई.डब्ल्यू.]

संजय बहादुर, निदेशक

MINISTRY OF COAL

New Delhi, the 10th March, 2004

S.O. 659.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice its intention to prospect for coal therein.

The plan bearing number: SECL/BSP/GM(PLG)/LAND/283 dated the 30th December, 2003 of the area covered by this notification can be inspected in the office of the Collector, Shahdol (Madhya Pradesh) or in the office of the Coal Controller. 1. Council House Street, Kolkata-700 001 or in the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh).

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in Sub-section (7) of Section 13 of the said Act to the Office-in-Charge/Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh), within ninety days from the date of publication of this notification in the Official Gazette.

Schedule

Singhpur Block, Sohagpur area

District-Shahdol (Madhya Pradesh)

Plan bearing No. SECL/BSP/GM (Plg/Land 283 dated 30th December, 2003 showing the land notified for prospecting).

Serial number	Namer of village	Patwari halka number	Tehsil	District	Area in hectares	Remarks
01	Singhpur	21	Sohagpur	Shahdol	1377.903	Full
02	Parmaniya Khurd	21	Sohagpur	Shahdol	328.238	Full
03	Aintajhar	21	Sohagpur	Shahdol	565.391	Full
04	Jodhpur	22	Sohagpur	Shahdol	791.793	Full
05	Chandaniya	22	Sohagpur	Shahdol	150.340	Part
06	Uraha	23	Sohagpur	Shahdol	95.000	Part
07	Dudhi	23	Sohagpur	Shahdol	579.977	Full
08	Padariya	24	Sohagpur	Shahdol	395.013	Full
09	Parmaniya Kala	24	Sohagpur	Shahdol	295.422	Part
10	Narghi	24	Sohagpur	Shahdol	389.589	Full

Total : 4968.666 hectares (approximately) or 12277.57 acres (approximately)

Boundary Description

A-B Line starts from point 'A' on the boundary of Chandaniya village and passes along the Western boundary of villages Chandaniya, Jodhpur, Dudhi, Uraha and meets at point 'B'.

B-C Line passes through villages Uraha, Parmaniya Kala, then alone the Northern boundary of Narghi Village and meets at point 'C'.

C-D Line passes along the Eastern boundary of villages Narghi, Padariya and meets at point 'D'.

D-A Line passes along the Southern boundary of villages Padariya Singhpur along the Eastern boundary of villages Jodhpur, Chandaniya then through village Chandaniya and meets at the starting point 'A'.

[No. 43015/8/2004/PRIW]

SANJAY BAHADUR, Director

नई दिल्ली, 10 मार्च, 2004

का.आ. 660 .—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि से कोयला अभिप्राप्त किए जाने की संभावना है;

अत: अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है;

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र का रेखांक संख्याक एसईसीएल/बीएसपी/जीएम (पीएलजी) भूमि/275, तारीख 20 नवम्बर, 2003 का निरीक्षण कलक्टर, शहडोल (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1 काउंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लि. (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

इस अधिसूचना के अन्तर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में विनिर्दिष्ट सभी नक्शें चार्ट और अन्य दस्तावेज या इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साउथ ईस्टर्न कोलफील्ड्स लिमिटेड सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) को भेजेंगे।

अनुसूची

करकटी ब्लाक (विस्तार), सोहागपुर क्षेत्र

जिला - शहडोल (मध्य प्रदेश)

[रेखांक संख्या एसईसीएल/बीएसपी/जीएम (पीएलजी) भूमि 275, तारीख 20 नवम्बर, 2003

(पूर्वेक्षण के लिए अधिसूचित भूमि दर्शाते हुए]

(नवगांव विस्तार)

(ब्लाक-I)

क्रम संख्यांक	ग्राम का नाम	पटवारी हल्का संख्या	तहसील	जिला	क्षेत्र हैक्टर में	टिप्पणियां
01	खन्नाथ	93	सोहागपुर	शहडोल	87.204	भाग
02	खैरहा	93	सोहागपुर	शहडोल	07.121	भाग
03	छिरहटी	99	सोहागपुर	शहडोल	44.832	भाग
			योग : 139.157 हैक्टर			

सीमा वर्णन:—

क-ख-ग रेखा ग्राम खैरहा में बिन्दु "क" से आरंभ होती है और ग्राम खैरहा, खन्नाथ से होती हुई बिन्दु "ग" पर मिलती है।

ग-घ-क रेखा ग्राम खन्नाथ, छिरहटी, खैरहा से होती हुई आरंभिक बिन्दु "क" पर मिलती है।

(राजेन्द्र विस्तार)

(ब्लाक-II)

क्रम संख्यांक	ग्राम का नाम	पटवारी हल्का संख्या	तहसील	जिला	क्षेत्र हैक्टर में	टिप्पणियां
01	छिरहटी	99	सोहागपुर	शहडोल	110.800	भाग
02	सिरोंजा	99	सोहागपुर	शहडोल	311.004	भाग
03	धमनी खुर्द	95	सोहागपुर	शहडोल	122.000	भाग
			योग:-543.804 हैक्टर			

सकल योग (ब्लाक-I+ब्लाक-II) =682.961 हैक्टर (लगभग) या 1687.60 एकड (लगभग)

सीमा वर्णन:—

घ-ङ-च रेखा, ग्राम छिरहटी, कन्दोहा की सम्मिलित सीमा बिन्दु ''घ'' से आरंभ होती है, फिर ग्राम छिरहटी, सिरोंजा, ग्राम सिरोंजा की पूर्वी सीमा से होते हुए बिन्दु ''च'' पर मिलती है।

च-छ-घ रेखा, ग्राम सिरोंजा की दक्षिण सीमा के साथ-साथ गुजरती है फिर ग्राम धमनी खुर्द ग्राम धमनी खुर्द, छिरहटी की पश्चिमी सीमा के साथ-साथ होती हुई आरंभिक बिन्दु ''घ'' पर मिलती है।

[फा. सं. 43015/12/2003-पी.आर.आई.डब्ल्यू.]

संजय बहादुर, निदेशक

New Delhi, the 10th March, 2004

S.O. 660.—Whereas it appears to the Central Government that Coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice its intention to prospect for coal therein.

The plan of the bearing Number SECL/BSP/GM(PLG)/LAND/275 dated the 20th November, 2003 covered by this notification can be inspected at the Office of the Collector, Shahdol (Madhya Pradesh) or at the Office of the Coal Controller 1, Council House Street, Kolkata—7000001 or at the Office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur—495006 (Chhattisgarh).

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in Sub-section (7) of Section 13 of the said Act to the Office-in-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur—495006 (Chhattisgarh), within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

Karkati Block (Extension) Sohagpur Area

District-Shahdol (Madhya Pradesh)

Plan No. SECL/BSP/GM(PLG)/Land/275 dated the 20th November 2003 (Showing the land Notified for prospecting).

(Navgaon Extn.) : Block I

Serial number	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1.	Khannath	93	Sohagpur	Shahdol	87.204	Part
2.	Khairaha	93	Sohagpur	Shahdol	07.121	Part
3.	Chhirhiti	99	Sohagpur	Shahdol	44.832	Part
					Total : 139.157 (hectares)	

Boundary description :—

A-B-C Line starts from part "A" in village Khairaha and passes through village Khairaha, Khannath and meets at point "C".

C-D-A Line passes through villages Khannath, Chhirhiti, Khairaha and meets at the starting point of "A".

(Rajendra Extn)

(Block II)

Serial number	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1.	Chhirhiti	99	Sohagpur	Shahdol	110.800	Part
2.	Sirounja	99	Sohagpur	Shahdol	311.004	Part
3.	Dhamni Khurd	95	Sohagpur	Shahdol	122.000	Part

Total : 543.804 (hectares)

Grand Total : (Block-I+Block-II)=682.961 hectares (Approximately) or 1687.60 acres (Approximately)

Boundary description :—

D-E-F Line starts from point "D" on the common boundary of villages Chhirhiti, Kandoha then passes through villages Chhirhiti, Sirounja, Eastern boundary of village Sirounja and meets at Point "F".

F-G-D Line passes long South boundary of village Sirounja then passes through village Dhamni Khurd and along the Western boundary of villages Dhamni Khurd, Chhirhiti and meets at the starting point "D"

[F. No. 43015/12/2003-PRIW]

SANJAY BAHADUR, Director

नई दिल्ली, 10 मार्च, 2004

का.आ. 661.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन एवं विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) के अधीन जो भारत के राजपत्र, भाग II, खण्ड 3, उपखण्ड (ii), तारीख 6 अप्रैल, 2002 में प्रकाशित की गई थी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का. आ. 1146; तारीख 27 मार्च, 2002 द्वारा जो उक्त अधिसूचना से उपाबद्ध अनुसूची में और इससे संलग्न अनुसूची में है, विनिर्दिष्ट क्षेत्र में 1427.880 हेक्टर (लगभग) या 3528.29 एकड़ (लगभग) माप वाली भूमि में कोयले के अपने आशय की सूचना दी थी,

और, उक्त भूमि के संबंध में, उक्त अधिनियम की धारा 7 की उपधारा (1) के अधीन कोई सूचना नहीं दी गई है,

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 6 अप्रैल, 2004 से आरम्भ होने वाले एक वर्ष की और अवधि विनिर्दिष्ट करती है, जिसके भीतर केन्द्रीय सरकार उक्त भूमि को या ऐसी भूमि में या ऐसी भूमि पर कोई अधिकार का अर्जन करने के अपने आशय की सूचना दे सकेगी।

अनुसूची

रामपुर (बतुरा) खंड, सोहागपुर क्षेत्र

जिला - शहडोल (मध्य प्रदेश)

(रेखांक संख्या एसईसीएल/बीएसपी/जीएम (पीएलजी) भूमि/280, तारीख 21-11-2003

(पूर्वेक्षण के लिए अधिसूचित भूमि दर्शाते हुए)

क्रम संख्यांक	ग्राम का नाम	पटवारी हल्का नम्बर	तहसील	जिला	क्षेत्र हैक्टर में	टिप्पणियां
1.	रामपुर	107	अनुपपुर	शहडोल	1003.278	भाग
2.	बेलिया	107	अनुपपुर	शहडोल	260.395	भाग
3.	बेरिहा	107	अनुपपुर	शहडोल	164.207	संपूर्ण

योग – 1427.880 हेक्टर (लगभग) या 3528.29 एकड़ (लगभग)

सीमा वर्णन :

क-ख रेखा ग्राम बेलिया की सीमा पर बिन्दु ''क'' से आरम्भ होती है और ग्राम बेलिया, रामपुर बेरिहा की पूर्वी सीमा के साथ-साथ गुजरती है और बिन्दु ''ख'' पर मिलती है।

ख-ग ग्राम बेरिहा, रामपुर की दक्षिणी सीमा के साथ-साथ गुजरती है और बिन्दु ''ग'' पर मिलती है।

ग-घ रेखा ग्राम रामपुर से होकर गुजरती है, फिर ग्राम रामपुर और बेलिया की भागतः पश्चिमी सीमा के साथ-साथ और बिन्दु ''घ'' पर मिलती है।

घ-क रेखा ग्राम बेलिया से होते हुए गुजरती है और आरम्भिक बिन्दु ''क'' पर मिलती है।

[फा. सं. 43015/1/2002-पीआरआईडब्ल्यू]

संजय बहादुर, निदेशक

New Delhi, the 10th March, 2004

S.O. 661.—Whereas by the notification of the Government of India in the Ministry of Coal S.O. No. 1146 dated the 27th March, 2002, under Sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition & Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in Part II, Section 3, Sub-section (ii) of the Gazette of India dated the 6th April, 2002, the Central Government gave notice of its intention to prospect for coal in the land measuring 1427.880 hectares (approximately) or 3528.29 acres (approximately) in the locality specified in the schedule appended thereto as also in the schedule hereto annexed.

And whereas in respect of the said land, no notice under Sub-section (1) of Section 7 of the Said Act has been given.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 7 of the said Act the Central Government hereby specifies further period of one year commencing from 6th April, 2004, as the period within which the Central Government may give notice of its intention to acquire the land or any rights in or over scuh lands.

SCHEDULE

Rampur (Batura) Block, Sohagpur Area

District-Shahdol (Madhya Pradesh)

Plan No. SECL/BSP/GM(plg)/Land/280 dated the 21st November, 2003 (showing the land notified for prospecting).

Serial number	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1.	Rampur	107	Anuppur	Shahdol	1003.278	Part
2.	Beliya	107	Anuppur	Shahdol	260.395	Part
3.	Beriha	107	Anuppur	Shahdol	164.207	Full
Total :–1427.880 hectares (approximately) or 3528.29 acres (approximately)						

Boundary Description :—

A-B Line starts from Point "A" on the village boundary of Beliya and passes along the Eastern boundary of village Beliya, Rampur, Beriha and meets at point 'B'.

B-C Line passes along the Southern boundary of villages Beriha, Rampur and meets at point 'C'.

C-D Line passes through village Rampur, then partly along the Western boundary of villages Rampur and Beliya and meets at point 'D'.

D-A Line passes through village Beliya and meets at the starting point 'A'.

[F. No. 43015/1/2002-PRIW]

SANJAY BAHADUR, Director

शुद्धि-पत्र

नई दिल्ली, 11 मार्च, 2004

का.आ. 662.—भारत के राजपत्र, तारीख 27 दिसंबर 2003 के भाग II, खण्ड-3, उपखण्ड (ii) में पृष्ठ क्रमांक 7721 से 7722 पर प्रकाशित, भारत सरकार, कोयला मंत्रालय की अधिसूचना का. आ. संख्या 3479 तारीख 18 दिसम्बर, 2003 में :—

पृष्ठ क्रमांक—7722 पर

अनुसूची में,

पंक्ति 1, "खनन अधिकारी" **के स्थान पर** "खनन अधिकार" **पढ़ें।**

(1) ग्राम ढेलवाडीह (भाग) में अर्जित किये जाने वाले प्लाट संख्यांक में :—

पंक्ति 1, "315/1 के (भाग)" **के स्थान पर** "315/1 क (भाग)" **पढ़ें।**

[फा. सं. 43015/13/2002-पीआर आई डब्ल्यू]

संजय बहादुर, निदेशक

CORRIGENDA

New Delhi, the 11th March, 2004

S.O. 662.—In the notification of the Government of India in the Ministry of Coal S.O. number 3479 dated the 18th December, 2003, published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 27th December, 2003,—

(i) at page 7723 in lines 44 and 45

for "Patwari halk number" read "Patwari halka number".

(ii) at page 7724, in line 18

for "Dhabahab" read "Dhabdhab".

[F. No. 43015/13/2002-PRIW]

SANJAY BAHADUR, Director

नई दिल्ली, 11 मार्च, 2004

का.आ. 663.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन एवं विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) के अधीन जो भारत के राजपत्र, भाग II, खण्ड 3, उपखण्ड (ii), तारीख 20 अप्रैल, 2002 में प्रकाशित की गई थी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का. आ. 1319, तारीख 12 अप्रैल, 2002 द्वारा उक्त अधिसूचना से इससे संलग्न अनुसूची में भी है, विनिर्दिष्ट क्षेत्र में जिसका माप 1438.962 हेक्टर (लगभग) या 3555.67 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी,

और, उक्त भूमि के संबंध में, उक्त अधिनियम की धारा 7 की उपधारा (1) के अधीन कोई सूचना नहीं दी गई है,

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 20 अप्रैल, 2004 से आरम्भ होने वाले एक वर्ष की और अवधि के लिए विनिर्दिष्ट करती है, जिसके भीतर केन्द्रीय सरकार उक्त भूमि को या ऐसी भूमि में या ऐसी भूमि पर या ऊपर के किसी अधिकारों का अर्जन करने के अपने आशय की सूचना दे सकेगी।

अनुसूची

बोडरी ब्लाक, सोहागपुर क्षेत्र

जिला - शहडोल (मध्य प्रदेश)

(रेखांक संख्या—एसईसीएल/बीएसपी/जीएम (पीएलजी) भूमि/279, तारीख 21 नवम्बर, 2003)

(पूर्वेक्षण के लिए अधिसूचित भूमि दर्शाते हुए)

क्रम संख्या	ग्राम का नाम	पटवारी हल्का नम्बर	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियां
1	2	3	4	5	6	7
1.	बोडरी	19	सोहागपुर	शहडोल	960.135	संपूर्ण
2.	अंतरिया	19	सोहागपुर	शहडोल	279.847	संपूर्ण
3.	पिपरिया	94	सोहागपुर	शहडोल	198.980	भाग
	योग - 1438.962 हेक्टर (लगभग) या 3555.67 एकड़ (लगभग)					

सीमा वर्णन :

क-ख रेखा ग्राम् अंतरिया की सीमा पर बिन्दु ''क'' से आरम्भ होती है और ग्राम अंतरिया की पश्चिमी सीमा के साथ-साथ जाती है फिर ग्राम बोडरी की दक्षिणी पश्चिमी सीमा के साथ-साथ जाकर और बिन्दु ''ख'' पर मिलती है।

ख-ग रेखा ग्राम बोडरी की उत्तरी सीमा के साथ-साथ जाती है और बिन्दु ''ग'' पर मिलती है।

ग-घ रेखा ग्राम बोडरी अंतरिया, पिपरिया की पूर्वी सीमा के साथ जाती है और बिन्दु ''घ'' पर मिलती है।

घ-क रेखा ग्राम पिपरिया से होकर ग्राम अंतरिया की दक्षिणी सीमा के साथ-साथ जाती है और आरम्भिक बिन्दु ''क'' पर मिलती है।

[फा. सं. 43015/2/2002-पी.आर.आई.डब्ल्यू.]

संजय बहादुर, निदेशक

New Delhi, the 11th March, 2004

S.O. 663.—Whereas by the notification of the Government of India in the Ministry of Coal S. O. No. 1319 dated the 12th April, 2002, under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition & Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in Part II, Section 3, Sub-section (ii) of the Gazette of India dated the 20th April, 2002, the Central Government gave notice of its intention to prospect for coal in the land measuring 1438.962 hectares (approximately) or 3555.67 acres (approximately) in the locality specified in the schedule appended thereto as also in the schedule hereto annexed.

And whereas as in respect of the said land, no notice under sub-section (1) of section 7 of the said Act has been given.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act the Central Government hereby specifies further period of one year commencing from 20th April, 2004, as the period within which the Central Government may give notice of its intention to acquire the land or any rights in or over scuh lands.

SCHEDULE

Bodri Block, Sohagpur Area

District-Shahdol (Madhya Pradesh)

Plan No. SECL/BSP/GM(plg)/Land/279 dated the 21st November, 2003 (showing the land notified prospecting).

Serial number	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1	Bodri	19	Sohagpur	Shahdol	960.135	Full
2	Antariya	19	Sohagpur	Shahdol	279.847	Full
3	Piparia	94	Sohagpur	Shahdol	198.980	Part
Total :–1438.962 hectares (approximately) or 3555.67 acres (approximately)						

Boundary Description :—

A-B Line starts from Point "A" on the boundary of village Antariya and passes along the Western boundary of village Antariya then South western boundary of village Bodri and meets at point 'B'

B-C Line passes along the Northern Boundary of village Bodri, and meets at point "C".

C-D Line passes along the Eastern Boundary of village Bodri, Antariya, Piparia and meets at Point "D".

D-A Line passes through village Piparia then, Southern boundary of village Antariya and meets at the starting point "A".

[F. No. 43015/2/2002-PRIW]

SANJAY BAHADUR, Director

नई दिल्ली, 11 मार्च, 2004

का.आ. 664.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है।

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अंतर्गत आने वाले रेखांक सं. एस.ई.सी.एल./बी.एस.पी./जीएम (पीएलजी)/भूमि/284 तारीख 30 दिसंबर, 2003 का निरीक्षण कलेक्टर शहडोल (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक 1 काउंसिल हाउस स्ट्रीट, कोलकाता 700001 के कार्यालय में या साउथ ईस्टर्न कोल फील्डस लिमिटेड (राजस्व अनुभाग) सीपत रोड बिलासपुर 495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में, हितबद्ध सभी व्यक्ति, उक्त् अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व) साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड़, बिलासपुर 495006 (छत्तीसगढ) को भेजेंगे।

अनुसूची

धनपुरा खंड, सोहागपुर क्षेत्र

जिला - शहडोल (मध्य प्रदेश)

(रेखांक संख्या-एसईसीएल/बीएसपी/जीएम (पीएलजी) भूमि/284, तारीख 30 दिसम्बर, 2003
(पूर्वेक्षण के लिए अधिसूचित भूमि दर्शाते हुए)

क्रम संख्यांक	ग्राम का नाम	पटवारी हल्का नम्बर	तहसील	जिला	क्षेत्र हैक्टर में	टिप्पणियां
01	धनपुरा	93	सोहागपुर	शहडोल	488.098	संपूर्ण
02	धनपुरा	93	सोहागपुर	शहडोल	307.418	संपूर्ण
03	चौराडोह	93	सोहगपुर	शहडोल	211.492	भाग
04	बरतरा	93	सोहागपुर	शहडोल	201.344	भाग
05	अहिरगवां	100	सोहागपुर	शहडोल	185.856	भाग
06	बुढार	100	सोहागपुर	शहडोल	170.360	भाग
07	गोपालपुर	100	सोहागपुर	शहडोल	25.000	भाग
08	चिटुहला	100	सोहागपुर	शहडोल	246.361	भाग

योग-1835.929 हेक्टर (लगभग) या 4536.58 एकड़ (लगभग)

सीमा वर्णन :

क-ख रेखा ग्राम धनपुरा की सीमा पर बिन्दु ''क'' से आरम्भ होती है और ग्राम धनपुरा के पश्चिमी सीमा के साथ-साथ गुजरती है और बिन्दु ''ख'' पर मिलती है।

ख-ग रेखा ग्राम धनपुरा, धनपुरी, चिटुहला, अहिरगवां, बुढ़ार की उत्तरी सीमा के साथ-साथ गुजरती है और बिन्दु ''ग'' पर मिलती है।

ग-घ रेखा ग्राम बुढ़ार से होते हुए बिन्दु ''घ'' पर मिलती है।

घ-क रेखा ग्राम अहिरगवां, गोपालपुर, चिटुहला, बरतरा, चौराडीह से होते हुए गुजरती है और फिर ग्राम धनपुरा की दक्षिणी सीमा से और आरंभिक बिन्दु ''क'' पर मिलती है।

[फा.सं. 43015/7/2004-पी.आर.आई.डब्ल्यू.]

संजय बहादुर, निदेशक

New Delhi, the 11th March, 2004

S.O. 664.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed :—

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing Number SECL/BSP/GM(PLG)/LAND/284 dated the 30th December, 2003 of the area covered by this notification can be inspected in the Office of the Collector, Shahdol (Madhya Pradesh) or in the Office of the Coal Controller, 1, Council House Street, Calcutta-700001 or in the Office of South Eastern Coalfields (Revenue Section), Seepat Road, Bilaspur – 495006 (Chhattisgarh).

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in Sub-section (7) of Section 13 of the said Act to the Officer-in-Charge/Head of the Deartment (Revenue). South Eastern Coalfields Limited , Seepat Road, Bilaspur – 495006 (Chhattisgarh) within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

Dhanpura Block, Sohagpur area

District-Shahdol (Madhya Pradesh)

Plan bearing No. SECL/BSP/GM(Plg)/Land/284 dated 30th November, 2003

(showing the land notified for prospecting).

Serial number	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1	Dhanpura	93	Sohagpur	Shahdol	488.098	Full
2	Dhanpuri	93	Sohagpur	Shahdol	307.418	Full
3	Chauradih	93	Sohagpur	Shahdol	211.492	Part
4.	Bartara	93	Sohagpur	Shahdol	201.344	Part
5.	Ahirgawan	100	Sohagpur	Shahdol	185.856	Part
6.	Burhar	100	Sohagpur	Shahdol	170.360	Part
7.	Gopalpur	100	Sohagpur	Shahdol	25.000	Part
8.	Chituhla	100	Sohagpur	Shahdol	246.361	Part

Total : 1835.929 hectares (approximately) or 4536.58 acres (approximately)

Boundary Description :

A-B	Line starts from Point "A" on village boundary Dhanpura and passes along the Western boundary of Dhanpura village and meets at point 'B'.
B-C	Line passes along the Northern boundary of villages Dhanpura, Dhanpuri, Chituhla, Ahirgawan, Burhar and meets at point 'C'.
C-C1-D	Line passes through Burhar village and meets at Point 'D'.
D-A	Line passes through villages Ahirgawan, Gopalpur, Chituhla, Bartara, Chauradih, then Southern boundary of Dhanpura village and meets at the starting point 'A'.

[No. 43015/7/2004/PRIW]

SANJAY BAHADUR, Director

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 11 मार्च, 2004

का.आ.665.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे की सारणी के स्तंभ (1) में उल्लिखित आईबीपी कंपनी लिमिटेड के अधिकारियों को, जो सरकार के राजपत्रित अधिकारी की पंक्ति के समतुल्य अधिकारी हैं, उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है और उक्त अधिकारी उक्त सारणी के स्तंभ (2) से विनिर्दिष्ट परिसर की बाबत अपनी स्थानीय सीमाओं के भीतर; उक्त अधिनियम द्वारा या उसके अधीन सम्पदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग और उन पर अधिरोपित कर्त्तव्यों का पालन करेंगे।

सारणी

क्र.सं.	अधिकारी का नाम और पदनाम	सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं
(i)	एकक भारसाधक-कोरबा	छत्तीसगढ़ राज्य में आईबीपी कं. लि., व्यवसाय समूह (विस्फोटक) के या उनके द्वारा या उनकी ओर से पट्टे पर लिए गए या अधिग्रहण किए गए परिसर।
(ii)	एकक भारसाधक-सिंगरौली	मध्य प्रदेश राज्य में आईबीपी कं. लि., व्यवसाय समूह (विस्फोटक) के या उनके द्वारा या उनकी ओर से पट्टे पर लिए गए या अधिग्रहण किए गए परिसर।
(iii)	एकक भारसाधक-कुद्रेमुख	कर्नाटक राज्य में आईबीपी कं. लि., व्यवसाय समूह (विस्फोटक) के या उनके द्वारा या उनकी ओर से पट्टे पर लिए गए या अधिग्रहण कि गए परिसर।
(iv)	एकक भारसाधक-ब्लाक-2, धनबाद	झारखंड राज्य में आईबीपी कं. लि., व्यवसाय समूह (विस्फोटक) के या उनके द्वारा या उनकी ओर से पट्टे पर लिए गए या अधिग्रहण किए गए परिसर।
(v)	महा प्रबंधक (दक्षिणी क्षेत्र)	कर्नाटक, तमिलनाडु, केरल, आंध्र प्रदेश और पांडिचेरी राज्यों में आईबीपी कं. लि., व्यवसाय समूह (पेट्रोलियम) के या उनके द्वारा या उनकी ओर से पट्टे पर लिए गए या अधिग्रहण किए गए परिसर।
(vi)	महा प्रबंधक (पूर्वी क्षेत्र)	पश्चिम बंगाल, बिहार, उड़ीसा, असम, झारखंड और अन्य उत्तर पूर्वी राज्यों में आईबीपी कं. लि., व्यवसाय समूह (पेट्रोलियम) के या उनके द्वारा या उनकी ओर से पट्टे पर लिए गए या अधिग्रहण किए गए परिसर।

[सं. पी-44020/1/97-विपणन]

प्रमोद नांगिया, निदेशक

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 11th March, 2004

S.O. 665.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the Officers mentioned in column (1) of the Table below, being officers of M/s IBP Co. Ltd. equivalent to the rank of a Gazetted Officer of Government, to be the Estate Officers for the purposes of the said Act, and the said officers shall exercise the powers conferred and perform the duties imposed on an Estate Officer by or under the said Act within the local limits of their jurisdiction, in respect of the premises specified in column (2) of the said Table.

TABLE

Sl. No.	Name and Designation of the Officer	Categories of Public Premises and local limits of jurisdiction
	(1)	(2)
(i)	Unit In-Charge - Korba	Premises belonging to or taken on lease or requisitioned by or on behalf of IBP Co. Ltd., Business Group (Explosives) situated in the State of Chhattisgarh.

(1)		(2)
(ii)	Unit In-Charge - Singrauli	Premises belonging to or taken on lease or requisitioned by or on behalf of IBP Co. Ltd., Business Group (Explosives) situated in the State of Madhya Pradesh.
(iii)	Unit In-Charge - Kudremukh	Premises belonging to or taken on lease or requisitioned by or on behalf of IBP Co. Ltd., Business Group (Explosives) situated in the State of Karnataka.
(iv)	Unit In-Charge - Block II, Dhanbad	Premises belonging to or taken on lease or requisitioned by or on behalf of IBP Co. Ltd. Business Group (Explosives) situated in the State of Jharkhand.
(v)	General Manager (Southern Region)	Premises belonging to or taken on lease or requisitioned by or on behalf of IBP Co. Ltd., Business Group (Petroleum) in the State of Karnataka, Tamil Nadu, Kerala, Andhra Pradesh and Pondicherry.
(vi)	General Manager (Eastern Region)	Premises belonging to or taken on lease or requisitioned by or on behalf of IBP Co. Ltd., Business Group (Petroleum) in the State of West Bengal, Bihar, Orissa, Assam, Jharkhand and other North-Eastern States.

[No. P-44020/1/97-MKT]

PRAMOD NANGIA, Director

नई दिल्ली, 11 मार्च, 2004

का.आ. 666.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पॉन्डिचेरी राज्य में बॉस प्रोफाइल से अदिथ्या फेरो एलॉएज गैस पाइपलाइन तक प्राकृतिक गैस के परिवहन लिए गेल (इण्डिया) लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अत:, अब, केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन जारी भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, कावेरी परियोजना, 19, पेरूमल पूर्वी गली, नागापट्टिनम-611001 (तमिलनाडु) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ.यू. के लिए अर्जित क्षेत्रफल (हेक्टयर में)
1	2	3	4	5
पॉन्डिचेरी	कराइकल	16, सोराकुडी	241-2	0.01.0 सरकारी भूमि
			252-1ए	0.05.0
			253	0.08.5
			254-2ए	0.02.0

1	2	3	4	5
पॉन्डिचेरी	कराइकल	16, सोराकुडी	254-2बी	0.07.0
			255-4	0.03.0
			255-5	0.08.0
			256-1	0.12.0
			कुल	0.47.5

[फा. सं. एल-14014/36/'03-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 11th March, 2004

S.O.666.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas from Boss Profile to Adithya Ferro Alloys gas pipeline in the State of Pondicherry, a pipeline should be laid by the GAIL (India) Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire that right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laving of the pipeline under the land to the Competent Authority, GAIL (India) Limited, Cauveri Project, 19 Perumal East Street, Nagapattinam – 611001 (Tamilnadu).

SCHEDULE

DISTRICT	TEHSIL	VILLAGE	SURVEY NO.	AREA TO BE ACQUIRED FOR ROU (IN HECTARE)
Pondicherry	Karaikal	16, Sorakkudy	241-2	0.01.0 Govt. Plot
			252-IA	0.05.0
			253	0.08.5
			254-2A	0.02.0
			254-2B	0.07.0
			255-4	0.03.0
			255-5	0.08.0
			256-1	0.12.0
			Total	0.47.5

[F. No. L-14014/36/'03-G.P.]

SWAMI SINGH, Director

नई दिल्ली, 11 मार्च, 2004

का. आ. 667.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 2645 तारीख 10 सितम्बर, 2003, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पॉन्डिचेरी राज्य में जॉनसन टाईल्स से जीआरएसएल (एस) से प्राकृतिक गैस के परिवहन के लिए गेल (इन्डिया) लिमिटेड द्वारा, भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की राजपत्रित प्रतियां जनता को तारीख 14 अक्टूबर, 2003 तक उपलब्ध करा दी गई थीं;

और उक्त पाइपलाइन बिछाने के सम्बन्ध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उस भूमि में उपयोग के अधिकार का अर्जित करने का विनिश्चय किया है।

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, केन्द्रीय सरकार में निहित होने के बजाए, पाइपलाइन बिछाने का प्रस्ताव करने वाली गेल (इंडिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त, गेल (इंडिया) लिमिटेड में निहित होगा।

अनुसूची

जिला	तहसील	गांव	सर्वे नं	आर.ओ.यू. के लिए अर्जित क्षेत्रफल (हेक्टेयर में)
1	2	3	4	5
पॉन्डिचेरी	कारैकल	3, सेबूर	245/1 ए	0.10.0
			245/1 बी	0.01.5
			245/5	0.00.5 सरकारी भूमि
			कुल	**0.12.5**
		17, थैन्नानकुडी		
			145/1	0.02.0 सरकारी भूमि
			145/2	0.32.0
			144/2	0.27.5
			144/3	0.00.5
			138	0.03.5 सरकारी भूमि
			136/2	0.23.0
			135/1	0.25.5
			135/2	0.00.5 सरकारी भूमि
			134	0.03.0 सरकारी भूमि
			कुल	**1.17.5**

[फा. सं. एल-14014/38/'03-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 11th March, 2004

S.O. 667.— Whereas, by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2645 dated the 10th September, 2003. issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisiton of Right of User in Land) Act. 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of natural gas from Johnson Tiles to GRSL gas pipeline in the State of Pondicherry, by the GAIL (India) Limited;

And whereas copies of the said Gazette notifications were made available to the public from 14th October, 2003;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the competent authority has, under Sub-section (1) of Section 6 of the said Act, submitted its report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the right of user therein.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Scheduled appended to this notification is hereby acquired for laying the pipelines;

And, further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipelines shall, instead of vesting in the Central Government vest, on the date of the publication of the declaration, in the GAIL (India) Limited, proposing to lay the pipelines and there upon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in the GAIL (India) Limited, free from all encumbrances.

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for ROU (in hectare)
Pondicherry	Karaikal	3, Sethur	245/1 A	0.10.0
			245/1 B	0.01.5
			245/5	0.00.5 Govt. Plot.
			Total	**0.12.5**
		17, Thennangudy	145/1	0.02.0 Govt. Plot.
			145/2	0.32.0
			144/2	0.27.5
			144/3	0.00.5
			138	0.03.5 Govt. Plot.
			136/2	0.23.0
			135/1	0.25.5
			135/2	0.00.5 Govt. Plot.
			134	0.03.0 Govt. Plot
			Total	**1.17.5**

[F. No. L-14014/38/'03-G.P.]

SWAMI SINGH, Director

नई दिल्ली, 11 मार्च, 2004

का.आ. 668.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्यांक का.आ. 939(अ) तारीख, 19 अगस्त, 2003, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में, गुजरात राज्य में राष्ट्रीय गैस ग्रिड परियोजना के अधीन दहेज-हजीरा-उरान-धाबोल पाइपलाइन सेक्टर के माध्यम से प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाइन बिछाने के लिए, उपयोग के अधिकार का अर्जन करन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 30 सितम्बर, 2003 तक उपलब्ध करा दी गई थीं;

और उक्त पाइपलाइन बिछाने के सम्बन्ध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उस भूमि में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, केन्द्रीय सरकार में निहित होने के बजाए, पाइपलाइन बिछाने का प्रस्ताव करने वाली गेल (इंडिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त, गेल (इंडिया) लिमिटेड में निहित होगा।

अनुसूची

जिला	तहसील	गांव	सर्वे नंबर	उ.का.अ. के लिए अर्जित की जाने वाली भूमि (हेक्टेयर में)
1	2	3	4	5
सुरत	ओलपाड	उमरची	389	0-12-96
			391	0-28-11
			387	0-01-03
			384	0-22-28
			कारट्रेक	0-02-25
			385	0-01-80
			नाला	0-04-47
			328	0-53-65
			नाला	0-09-16
			329	0-42-02
			331	0-15-28
			रोड	0-09-03
			319	0-14-00
			317	0-11-14
			318	0-29-18
			कारट्रेक	0-00-99
			261	0-15-35
			262	0-33-93
			263	0-07-10
			556	0-36-76
			266	0-22-52

1	2	3	4	5
सुरत	ओलपाड	उमरची (जारी)	267	0-21-49
			268	0-09-21
			257	0-07-00
		23 : उमरछी	रीवर	0-26-06
			26	0-17-49
			27	0-48-81
			20	0-15-16
			16	0-19-00
			19	0-05-61
			17	0-19-27
			कारट्रेक	0-01-96
			14	0-25-76
			11	0-08-61
			कुल	01-87-73
		25 : भादोल	396	0-36-12
			नाला	0-04-06
			397	0-00-14
			395	0-00-43
			394	0-43-90
			390	0-01-56
			391	0-33-86
			392	0-30-66
			308	0-00-12
			312	0-45-55
			313	0-29-23
			300	0-07-93
			298	0-39-55
			297	0-43-99
			296	0-19-11
			295	0-17-29
			294	0-27-47
			289	0-40-42
			285	0-12-69
			286	0-11-64
			वी. बी. एम. रोड	0-06-53
			213	0-33-15
			216	0-00-26
			217	0-06-53
			219	0-15-09
			220	0-06-26
			218	0-13-49
			केनाल	0-01-29
			229/ब	0-00-04
			229/अ	0-16-59
			228	0-29-43
			227	0-06-57
			केनाल	0-07-29
			74	0-03-04
			75	0-35-25

1	2	3	4	5
सुरत	ओलपाड	25 : भादोल	76/ब	0-25-03
			76/अ	0-19-45
			77	0-23-51
			78	0-08-92
			79	0-52-33
			53	0-02-67
			52	0-10-07
			80	0-02-55
			52	0-14-56
			खाडी	0-10-44
			कुल	07-81-50
सुरत	ओलपाड	27 : इरथान	183	0-35-54
			कदरामा-इरथान रोड	0-09-55
			161	0-46-69
			162	0-03-57
			167	0-29-16
			166	0-28-86
			165	0-03-59
			174	0-03-66
			167	0-59-74
			148/पैकी	0-31-71
			केनाल	0-16-09
			175	0-05-14
			146	0-29-80
			135	0-15-71
			138	0-12-67
			84	0-70-92
			144	0-28-36
			85	0-03-03
			86	0-06-47
			95	0-03-68
			96	0-49-14
			नाला	0-08-03
			टरकामा इरथान रोड	0-05-77
			9/अ-1	
			9/अ-2	
			9/ब	0-47-65
			10	0-62-52
			14	0-17-86
			12	0-09-04
			45	0-57-21
			21	0-35-42
			35	0-23-11
			36	0-00-68
			नाला	0-14-95
			कारट्रेक	0-09-65
			44	0-24-88
			43	0-00-01

1	2	3	4	5
सुरत	ओलपाड	27 : इरथान	42	0-31-08
			41	0-24-20
			कुल	08-30-01
सुरत	ओलपाड	30 : अटोदरा	261	0-02-49
			260	0-07-34
			262	0-27-82
			263	0-10-52
			266	0-13-01
			265	0-22-43
			265/पैकी	0-25-54
			केनाल	0-07-84
			279	0-25-54
			केनाल	0-07-38
			278	0-30-31
			359	0-16-29
			358	0-17-79
			351/अ	0-45-50
			349	0-16-17
			348	0-30-22
			345/अ-ब	0-23-59
			366	0-16-97
			344	0-00-68
			कारट्रेक	0-07-20
			433	0-10-28
			405	0-11-91
			406	0-45-11
			408	0-18-49
			409	0-37-97
			390	0-39-75
			ड्रेइन	0-01-40
			389	0-10-04
			388	0-17-97
			387	0-04-31
			केनाल	0-03-08
			एस. एच. 6	0-10-23
			केनाल	0-04-85
			383	0-39-73
			384	0-06-43
			381	0-13-13
			कुल	06-32-31
सूरत	ओलपाड	33 : कनाढ	151	0-24-07
			148	0-01-86
			रोड	0-11-19
			150	0-08-68
			149	0-20-47
			148	0-81-55
			141	0-34-18
			140	0-31-34

1	2	3	4	5
			139	0-58-78
सूरत	ओलपाड	33 : कनाढ	136	0-28-37
			ड्रेइन	0-01-63
			128	0-85-50
			रोड	0-05-43
			126	0-25-76
			125	0-32-38
			कुल	4-51-19
			257	0-14-58
सुरत	ओलपाड	31 : करमला	253	0-01-18
			254	0-48-04
			255	0-31-30
			231	0-00-03
			229	0-58-32
			228	0-05-33
			अटोदरा-करमला रोड	0-14-46
			268.	0-03-17
			280	0-33-71
			केनाल	0-05-54
			281	0-28-40
			केनाल	0-07-90
			304/पैकी	0-21-59
			278/पैकी	
			278/2	0-30-05
			305	0-05-84
			306	0-74-36
			केनाल	0-03-45
			324	0-31-07
			केनाल	0-05-51
			323	0-39-97
			रोड	0-05-60
			341	0-10-32
			342	0-01-87
			343	0-22-11
			349	0-06-34
			387	0-86-60
			388/अ	0-42-21
			384/पैकी	0-02-83
			386	0-26-83
			356	0-86-86
			केनाल	0-03-42
			359	0-29-92
			360	0-27-32
			361	0-08-61
			कुल	08-24-64

[सं. एल-14014/12/2003-जी.पी. (भाग-II)]

स्वामी सिंह, निदेशक

New Delhi, the 11th March, 2004

S.O. 668.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 939(E) dated the 19th August, 2003, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of natural gas through Dahej–Hazira—Uran—Dhabol Pipeline Sector under National Gas Grid Project in the State of Gujarat, a pipeline should be laid by the GAIL (India) Limited;

And whereas copies of the said Gazette Notifications were made available to the public on 30th September, 2003;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the competent authority has, under Sub-section (1) of Section 6 of the said Act, submitted its report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the right of user therein.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipelines;

And, further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipelines shall, instead of vesting in the Central Government vest, on the date of the publication of the declaration, in the GAIL (India) Limited, proposing to lay the pipelines and there upon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in the GAIL (India) Limited, free from all encumbrances.

SCHEDULE

District	Teshil	Village	Survey No./ Block No.	Land to be acquired for R.O.U. in Hectares
1	2	3	4	5
Surat	Olpad	(20) Umrachhi	389	0-12-96
			391	0-28-11
			387	0-01-03
			384	0-22-28
			C.T.	0-02-25
			385	0-01-80
			NALA	0-04-47
			328	0-53-65
			NALA	0-09-16
			329	0-42-02
			331	0-15-28
			Road	0-09-03
			319	0-14-00
			317	0-11-14
			318	0-29-18
			C.T.	0-00-99
			261	0-16-35
			262	0-33-93
			263	0-07-10
			556	0-36-76
			266	0-22-52
			267	0-21-49
			268	0-09-21

1	2	3	4	5
Surat	Olpad	(20)Umrachhi (contd.)	257	0-07-00
			River	0-26-06
			26	0-17-49
			27	0-48-81
			20	0-15-16
			16	0-19-00
			19	0-05-61
			17	0-19-27
			C.T.	0-01-96
			14	0-25-76
			11	0-08-61
			Total	01-87-73
Surat	Olpad	(22) Bhadol	396	0-36-12
			NALA	0-04-06
			397	0-00-14
			395	0-00-43
			394	0-43-90
			390	0-01-56
			391	0-33-86
			392	0-30-66
			308	0-00-12
			312	0-45-55
			313	0-29-23
			300	0-07-93
			298	0-39-55
			297	0-43-99
			296	0-19-11
			295	0-17-29
			294	0-27-47
			289	0-40-42
			285	0-12-69
			286	0-11-64
			WBM Road	0-06-53
			213	0-33-15
			216	0-00-26
			217	0-06-53
			219	0-15-09
			220	0-06-26
			218	0-13-49
			Canal	0-01-29
			229/B	0-00-04
			229/A	0-16-59
			228	0-29-43
			227	0-06-57
			Canal	0-07-29
			74	0-03-04
			75	0-35-25
			76/B	0-25-03

1	2	3	4	5
Surat	Olpad	(22)Bhadol	76/A	0-19-45
			77	0-23-51
			78	0-08-92
			79	0-52-33
			53	0-02-67
			52	0-10-07
			80	0-02-55
			52	0-14-56
			Khadi	0-10-44
			Total	07-81-50
Surat	Olpad	(24) Erthan	183	0-35-54
			Kadarama-Erthan Road	0-09-55
			161	0-46-69
			162	0-03-57
			167	0-29-16
			166	0-28-86
			165	0-03-59
			174	0-03-66
			167	0-59-74
			148/P	0-31-71
			Canal	0-16-09
			175	0-05-14
			146	0-29-80
			135	0-15-71
			138	0-12-67
			84	0-70-92
			144	0-28-36
			85	0-03-03
			86	0-06-47
			95	0-03-67
			96	0-49-14
			Nala	0-08-03
			Road	0-05-77
			9/A-1-2	0-47-65
			9/B	
			10	0-62-52
			14	0-17-86
			12	0-09-04
			45	0-57-21
			21	0-35-42
			35	0-23-11
			36	0-00-68
			Nala	0-14-95
			C.T.	0-09-65
			44	0-24-88
			43	0-00-01
			42	0-31-08
			41	0-24-20
			Total	08-30-01

1	2	3	4	5
Surat	Olpad	(27) Atodara	261	0-02-49
			260	0-07-34
			262	0-27-82
			263	0-10-52
			266	0-13-01
			265	0-22-43
			265/P	0-25-54
			Canal	0-07-84
			279	0-25-54
			Canal	0-07-38
			278	0-30-31
			359	0-16-29
			358	0-17-79
			351/A	0-45-50
			349	0-16-17
			348	0-30-22
			345/A-B	0-23-59
			366	0-16-97
			344	0-00-68
			C.T.	0-07-20
			433	0-10-28
			405	0-11-91
			406	0-45-11
			408	0-18-49
			409	0-37-97
			390	0-39-75
			Drain	0-01-40
			389	0-10-04
			388	0-17-97
			387	0-04-31
			Canal	0-03-08
			S.H. 6	0-10-23
			Canal	0-04-85
			383	0-39-73
			384	0-06-43
			381	0-13-13
			Total	06-32-31
	Surat	Olpad	(28) Karamala	257	0-14-58
				253	0-01-18
				254	0-48-04
				255	0-31-30
				231	0-00-03
				229	0-58-32
				228	0-05-33
				Atodarakarmala Road	0-14-46
				268	0-03-17
				280	0-33-71
				Canal	0-05-54
				281	0-28-40

1	2	3	4	5
			Canal	0-07-90
			304/P	0-21-59
			278/2	0-30-05
			305	0-05-84
			306	0-74-36
			Canal	0-03-45
			324	0-31-07
			Canal	0-05-51
			323	0-39-97
			Road	0-05-60
			341	0-10-32
			342	0-01-87
			343	0-22-11
			349	0-06-34
			387	0-86-60
			388/P	0-42-21
			384/P	0-02-83
			386	0-26-83
			356	0-86-86
			Canal	0-03-42
			359	0-29-92
			360	0-27-32
			361	0-08-61
			Total	08-24-64
Surat	Olpad	(30) Kanad	151	0-24-07
			148	0-01-86
			Road	0-11-19
			150	0-08-68
			149	0-20-47
			148	0-81-55
			141	0-34-18
			140	0-31-34
			139	0-58-78
			136	0-28-37
			Drain	0-01-63
			128	0-85-50
			Road	0-05-43
			126	0-25-76
			125	0-32-38
			Total	4-51-19

[F. No. L-14014/12/2003-G.P. (Part-II)]

SWAMI SINGH, Director

नई दिल्ली 11 मार्च, 2004

का. आ. 669.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 2057 तारीख, 22 जुलाई, 2003, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में, गेल (इंडिया) लिमिटेड द्वारा उत्तर प्रदेश राज्य में मौरावन स्थित जिला उन्नाव में विद्यमान इन्टरमीडिएट पिगिंग स्टेशन से सिटी गेट स्टेशन लखनऊ परियोजना तक फीडर गैस पाइपलाइन के माध्यम से प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 17 सितम्बर, 2003 से 26 सितम्बर, 2003 तक उपलब्ध करा दी गई थी;

और पाइपलाइन बिछाने के सम्बन्ध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइनें बिछाने के लिए अपेक्षित है, उस में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है।

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइनें बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पाइपलाइनें बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, केन्द्रीय सरकार में निहित होने के बजाए, पाइपलाइनें बिछाने का प्रस्ताव करने वाली गेल (इंडिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त, गेल (इंडिया) लिमिटेड में निहित होगा।

अनुसूची

जिला	तहसील	गांव	खसरा नं.	आर. ओ. यू. अर्जित करने के लिए क्षेत्रफल हेक्टेयर में
1	2	3	4	5
लखनऊ	लखनऊ	मेमौरा	1019	0.0819
			1031	0.1511
			1026	0.0814
			1025	0.0106
			1023	0.2906
			1021	0.2643
			1020	0.0465
			1007	0.0813
			1008	0.0697
			1009	0.0698
			1010	0.0756
			329	0.0465
			922	0.0639
			921	0.1300
			918	0.1248
			917	0.0349
			595	0.0124
			596	0.1040
			597	0.0581
			607	0.0443
			610	0.0342

1	2	3	4	5
लखनऊ	लखनऊ	मेमौरा जारी	611	0.0125
			612	0.0465
			613	0.0761
			564	0.1279
			568	0.0378
			566	0.0884
			550	0.0780
			556	0.0585
			558	0.0480
			557	0.0929
			559	0.0122
			541	0.1040
			540	0.0728
			537	0.0624
			528	0.0728
			368	0.0349
			527	0.0378
			369	0.0624
			392	0.1196
			393	0.0407
			394	0.0520
			395	0.0520
			396	0.0416
			398	0.0520
			रास्ता	0.0156
			420	0.0676
			435	0.0610
			430	0.0292
			433	0.0232
			432	0.0624
			रास्ता	0.0156
			440	0.0872
			412	0.1163
			446	0.0395
			447	0.0465
			448	0.0756
			450	0.0103
			457	0.0432
			कुल	**4.0529**
		बीचोपुर	600	0.0780
			598	0.1104
			597	0.0291
			596	0.0378

1	2	3	4	5
लखनऊ	लखनऊ	बीबीपुर	602	0.0102
			591	0.0262
			595	0.0233
			592	0.0523
			590	0.0319
			896	0.0221
			895	0.0291
			509	0.0174
			510	0.1104
			514	0.0581
			513	0.0523
			517	0.0341
			518	0.0422
			520	0.0317
			521	0.0465
			524	0.1453
			527	0.1802
			528	0.0523
			529	0.0346
			588	0.0610
			538	0.1627
			599	0.0104
			537	0.1852
			539	0.0931
			483	0.1162
			482	0.0523
			481	0.0877
			461	0.1162
			460	0.1279
			459	0.1740
			453	0.0523
			439	0.0624
			438	3.0728
			436	0.0321
			437	0.0520
			435	0.0108
			425	0.0126
			428	0.0780
			429	0.0520
			409	0.0520
			410	0.0572
			405	0.2441
			405/925	0.0407
			408	0.0126
			कुल	**6.2738**

1	2	3	4	5
लखनऊ	लखनऊ	किशनपुर कोरिया	607	0.0892
			583	0.1891
			573	0.1392
			574	0.0110
			479	0.0134
			467	0.0501
			466	0.3191
			448	0.0017
			437	0.0129
			477	0.0112
			575	0.0108
			530	0.0121
			528	0.0106
			524	0.0361
			523	0.1072
			529	0.0216
			599	0.0622
			438	0.0344
			कुल	**1.1319**
		नेवान	148	0.0017
			133	0.0636
			114	0.1739
			113	0.0011
			25	0.0663
			33	0.0501
			95	0.1528
			96	0.1342
			97	0.0062
			94	0.0011
			93	0.1169
			85	0.0578
			84	0.0246
			82	0.0577
			115	0.0016
			83	0.0011
			26	0.0120
			कुल	**0.9227**
		करौनी	1567	0.0639
			1578	0.0041
			1569	0.0038
			1570	0.0317
			2067	0.0425

1	2	3	4	5
लखनऊ	लखनऊ	करौनी	2070	0.0164
			2068	0.0014
			2063	0.1715
			1610	0.1102
			2068	0.0863
			2065	0.0066
			1609	0.0085
			1611	0.0015
			1608	0.0018
			1598	0.0039
			1607	0.0684
			1605	0.0014
			1633	0.0816
			1640	0.0021
			1641	0.1727
			1644	0.0235
			439	0.0105
			1647	0.0912
			1646	0.0028
			1650	0.0311
			1652	0.0062
			1421	0.0166
			1419	0.0391
			1432	0.0227
			1433	0.1576
			902	0.0301
			901	0.0433
			900	0.0724
			430	0.0531
			422	0.0802
			405	0.0238
			406	0.0374
			319	0.1148
			314	0.0535
			305	0.0201
			304	0.0168
			313	0.0641
			312	0.0463
			418	0.0157
			1526	0.0784
			2064	0.0121
			कुल	2.0437
		मीरानपुर	670	0.0186
			669	0.0528

1	2	3	4	5
लखनऊ	लखनऊ	मीरानपुर	675	0.1681
			668	0.0052
			666	0.1201
			665	0.0339
			609	0.1122
			608	0.0188
			602	0.0451
			600	0.0130
			664	0.0081
			451	0.0620
			370	0.0129
			372	0.0672
			448	0.0717
			374	0.0673
			375	0.0241
			376	0.0384
			378	0.0671
			388	0.1120
			390	0.0283
			412	0.0359
			413	0.0590
			408	0.0637
			409	0.0173
			671	0.0021
			406	0.0276
			389	0.0122
			कुल	**1.3647**
		नटकुर	1708	0.0814
			1707	0.1395
			1706	0.0697
			1705	0.1686
			1691	0.1162
			1692	0.6509
			1620	0.0929
			1634	0.0697
			1623	0.1453
			1624	0.1162
			1627	0.2151
			कुल	**1.8655**
		गहुरू	1438	0.3604
			कुल	**0.3604**

[फा. सं. एल-14014/27/03-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 11th March, 2004

S.O. 669.— Whereas, by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2057 dated the 22nd July, 2003, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of natural gas through Feeder Gas Pipeline from Unnao to City Gate Station Lucknow Project in the State of Uttar Pradesh, a pipeline should be laid by the GAIL (India) Limited;

And whereas copies of the said Gazette notifications were made available to the public from 17th September, 2003 to 26th September, 2003;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the competent authority has, under Sub-section (1) of Section 6 of the said Act, submitted its report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the right of user therein.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipelines;

And, further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipelines shall, instead of vesting in the Central Government vest, on the date of the publication of the declaration, in the GAIL (India) Limited, proposing to lay the pipelines and there upon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in the GAIL (India) Limited, free from all encumbrances.

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for R.O.U. in Hectare
1	2	3	4	5
Lucknow	Lucknow	Memoura	1019	0.0819
			1031	0.1511
			1026	0.0814
			1025	0.0106
			1023	0.2906
			1021	0.2643
			1020	0.0465
			1007	0.0813
			1008	0.0697
			1009	0.0698
			1010	0.0756
			329	0.0465
			922	0.0639
			921	0.1300
			918	0.1248
			917	0.0349
			595	0.0124
			596	0.1040
			597	0.0581
			607	0.0443

1	2	3	4	5
Lucknow	Lucknow	Memoura	610	0.0342
			611	0.0125
			612	0.0465
			613	0.0761
			564	0.1279
			568	0.0378
			566	0.0884
			550	0.0780
			556	0.0585
			558	0.0480
			557	0.0929
			559	0.0122
			541	0.1040
			540	0.0728
			537	0.0624
			528	0.0728
			368	0.0349
			527	0.0378
			369	0.0624
			392	0.1196
			393	0.0407
			394	0.0520
			395	0.0520
			396	0.0416
			398	0.0520
			Rasta	0.0156
			420	0.0676
			435	0.0610
			430	0.0292
			433	0.0232
			432	0.0624
			Rasta	0.0156
			440	0.0872
			412	0.1163
			446	0.0395
			447	0.0465
			448	0.0756
			450	0.0103
			457	0.0432
			Total	**4.0529**
		Bibipur	600	0.0780
			598	0.1104
			597	0.0291
			596	0.0378
			602	0.0102
			591	0.0262
			595	0.0233

1	2	3	4	5
Lucknow	Lucknow	Bibipur	592	0.0523
			590	0.0319
			896	0.0221
			895	0.0291
			509	0.0174
			510	0.1104
			514	0.0581
			513	0.0523
			517	0.0341
			518	0.0422
			520	0.0317
			521	0.0465
			524	0.1453
			527	0.1802
			528	0.0523
			529	0.0346
			588	0.0610
			538	0.1627
			599	0.0104
			537	0.1852
			539	0.0931
			483	0.1162
			482	0.0523
			481	0.0877
			461	0.1162
			460	0.1279
			459	0.1740
			453	0.0523
			439	0.0624
			438	3.0728
			436	0.0321
			437	0.0520
			435	0.0108
			425	0.0126
			428	0.0780
			429	0.0520
			409	0.0520
			410	0.0572
			405	0.2441
			405/925	0.0407
			408	0.0126
			Total	6.2738
		Kishanpur Kauria	607	0.0892
			583	0.1891
			573	0.1392
			574	0.0110
			479	0.0134

1	2	3	4	5
Lucknow	Lucknow	Kishanpur Kauria	467	0.0501
			466	0.3191
			448	0.0017
			437	0.0129
			477	0.0112
			575	0.0108
			530	0.0121
			528	0.0106
			524	0.0361
			523	0.1072
			529	0.0216
			599	0.0622
			438	0.0344
			Total	**1.1319**
		Newan	148	0.0017
			133	0.0636
			114	0.1739
			113	0.0011
			25	0.0663
			33	0.0501
			95	0.1528
			96	0.1342
			97	0.0062
			94	0.0011
			93	0.1169
			85	0.0578
			84	0.0246
			82	0.0577
			115	0.0016
			83	0.0011
			26	0.0120
			Total	**0.9227**
		Karauni	1567	0.0639
			1578	0.0041
			1569	0.0038
			1570	0.0317
			2067	0.0425
			2070	0.0164
			2068	0.0014
			2063	0.1715
			1610	0.1102
			2068	0.0863
			2065	0.0066
			1609	0.0085
			1611	0.0015
			1608	0.0018

1	2	3	4	5
Lucknow	Lucknow	Karauni	1598	0.0039
			1607	0.0684
			1605	0.0014
			1633	0.0816
			1640	0.0021
			1641	0.1727
			1644	0.0235
			439	0.0105
			1647	0.0912
			1646	0.0028
			1650	0.0311
			1652	0.0062
			1421	0.0166
			1419	0.0391
			1432	0.0227
			1433	0.1576
			902	0.0301
			901	0.0433
			900	0.0724
			430	0.0531
			422	0.0802
			405	0.0238
			406	0.0374
			319	0.1148
			314	0.0535
			305	0.0201
			304	0.0168
			313	0.0641
			312	0.0463
			418	0.0157
			1526	0.0784
			2064	0.0121
			Total	**2.0437**
		Miranpur	670	0.0186
			669	0.0528
			675	0.1681
			668	0.0052
			666	0.1201
			665	0.0339
			609	0.1122
			608	0.0188
			602	0.0451
			600	0.0130
			664	0.0081
			451	0.0620
			370	0.0129
			372	0.0672

1	2	3	4	5
Lucknow	Lucknow	Miranpur	448	0.0717
			374	0.0673
			375	0.0241
			376	0.0384
			378	0.0671
			388	0.1120
			390	0.0283
			412	0.0359
			413	0.0590
			408	0.0637
			409	0.0173
			671	0.0021
			406	0.0276
			389	0.0122
			Total	**1.3647**
		Natkur	1708	0.0814
			1707	0.1395
			1706	0.0697
			1705	0.1686
			1691	0.1162
			1692	0.6509
			1620	0.0929
			1634	0.0697
			1623	0.1453
			1624	0.1162
			1627	0.2151
			Total	**1.8655**
		Geheru	1438	0.3604
			Total	**0.3604**

[F. No. L-14014/27/'03-G.P.]

SWAMI SINGH, Director

नई दिल्ली 16 मार्च, 2004

का. आ. 670 .—केन्द्रीय सरकार ने पैट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पैट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1981 तारीख, 17 अगस्त, 2003, जो भारत के राजपत्र तारीख 19 जुलाई, 2003 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुरु गोबिन्द सिंह रिफाइनरी लिमिटेड (हिन्दुस्तान पैट्रोलियम कॉरपोरेशन लिमिटेड की समनुषंगी) द्वारा मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन सैक्टर के माध्यम से गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन से पंजाब राज्य में भटिन्डा तक पैट्रोलियम उत्पादों के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए, उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 13 अगस्त, 2003 तक उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है।

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार अर्जित किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त, गुरु गोबिन्द सिंह रिफाइनरी लिमिटेड (हिन्दुस्तान पेटोलियम कॉरपोरेशन लिमिटेड की समनुषंगी) में निहित होगा।

अनुसूची

तालुका : **राधनपुर** जिला : **पाटण** राज्य : **गुजरात**

गाँव का नाम	सर्वे संख्या	भाग यदि है तो	क्षेत्रफल		
			हेक्टर	आर	सेन्टी आर
1	2	3	4		
(1) सांथली	29	—	00	06	10
(2) रंगपुरा	50	पैकी	00	08	01
(3) जावंत्री	295/1	—	00	02	77
	306	—	00	13	14
(4) चलवाडा	37	—	00	09	26
	41	—	00	05	44
	20	—	00	16	14
	111/1	पैकी	00	00	88
	107	—	00	01	92
	188	—	00	05	80
(5) बंधवड	246	—	00	03	66
(6) देव	142	—	00	01	56
	75	—	00	17	54
(7) सुलतानपुरा	158/2	पैकी	00	04	99
(8) सुबापुरा	187/1	पैकी	00	03	45
	187/1	पैकी कार्ट ट्रेक	00	03	59
	188	पैकी	00	04	03
	188	पैकी कार्ट ट्रेक	00	02	50
	189	पैकी कार्ट ट्रेक	00	00	71
	190	पैकी	00	05	48

तालुका : राधनपुर	जिला : पाटण			राज्य : गुजरात	
गाँव का नाम	सर्वे संख्या	भाग यदि है तो	क्षेत्रफल		
			हेक्टर	आर	सेन्टीआर
1	2	3		4	
(8) सुवापुरा (जारी)	191	पैकी	00	13	43
	192	पैकी	00	02	86
	12/1	पैकी कार्ट ट्रेक	00	01	06

[फाइल सं. आर-31015/8/2000-ओआर -II]

हरीश कुमार, अवर सचिव

New Delhi, the 16th March, 2004

S.O. 670.— Whereas, by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1981 dated the 17th July, 2003, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisiton of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated 19th July, 2003, the Central Government declared its intention to acquire the right of user in the land for the purpose of laying pipeline for the transport of crude oil from crude oil terminal at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab through Mundra-Bathinda Crude Oil Pipeline by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas copies of the said Gazette notifications were made available to the public on the 13th August, 2003;

And whereas the competent authority has, under Sub-section (1) of Section 6 of the said Act, submitted its report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipelines;

And, further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipelines shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited) free from all encumbrances.

SCHEDULE

Taluka : Radhanpur	**District : Patan**			**State : Gujarat**	
Name of Village	Survey No.	Part if Any	ROU Area		
			Ha.	Ar.	Sq. Mt.
1	2	3		4	
(1) Santhali	29	—	(0)	(06)	10
(2) Rangpura	50	P	(0)	(08)	01
(3) Jawantri	295/1	—	(0)	(02)	77
	306	—	(0)	13	14
(4) Chalwada	37	—	(0)	(09)	26
	41	—	(0)	05	44

Chalwada	20	—	00	16	14
	111/1	P	00	00	88
	107	—	00	01	92
	188	—	00	05	80
(5) Bandhwad	246	—	00	03	66
(6) Dev	142	—	00	01	56
	75	P	00	17	54
(7) Sultanpura	158/2	P	00	04	99
(8) Subapura	187/1	P-Cart Track	00	03	45
	187/1	P	00	03	59
	188	P-Cart Track	00	04	03
	188	P-Cart Track	00	02	50
	189	P	00	00	71
	190	P	00	05	48
	191	P	00	13	43
	192	P-Cart Track	00	02	86
	12/1		00	01	06

[File No: R-31015/8/2000-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 17 मार्च, 2004

का. आ. 671.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्यांक का.आ. 2050 तारीख, 21 जुलाई, 2003, जो भारत के राजपत्र तारीख 26 जुलाई, 2003 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में, महाराष्ट्र राज्य में पानेवाडी (मनमाड) से मध्यप्रदेश राज्य में मांगल्या (इंदौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए मुंबई-मनमाड पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कॉरपोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए, उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 8 सितम्बर, 2003 तक उपलब्ध करा दी गई थीं,

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कॉरपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : धुलिया जिला : धुलिया राज्य : महाराष्ट्र

ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र		
		हेक्टर	आर	चौरस मीटर
1	2	3	4	5
1. कुलथे	174	0	02	88
	7/4	0	08	46
	7/3	0	08	46
	138/ब/2	0	04	50
	152/अ/1 भाग	0	06	20
	152/अ2/2 भाग	0	01	70
	152/अ/2/1 भाग	0	07	20
	152/ब/2 भाग	0	16	40
	145 भाग	0	06	19
	134/1 भाग	0	02	05
	137/1 भाग	0	16	64
	7/2/1 भाग	0	21	20
	62/4 भाग	0	09	14
2. मांडल	75/1	0	15	48
	75/2	0	14	26
	77/1	0	00	90
	76	0	24	66
	81	0	01	98
	82	0	38	70
	93	0	21	60
	95	0	09	72
	94	0	31	68
	102/3	0	35	82
	102/2-1	0	12	06
	114	0	16	20
	115	0	14	40
	116/7	0	21	06
	102/10 भाग	0	14	20
	102/8 भाग	0	44	02
	102/7 भाग	0	19	61
	102/6/2 भाग	0	05	20
	116/4 भाग	0	19	40
	120/2 भाग	0	17	82
3. बोरकुंड	215/अ/1/1 भाग	0	33	82
	215/अ/ब/1/1 भाग	0	04	28

1	2	3	4	5
4. बोरकुंड (रतनपुरा)	605	0	24	40
	285/2 भाग	0	09	70
5. दोंदवाड	59/3	0	06	30
6. चिंचुर बुद्रुख	84	0	12	96
	109/1-5	0	19	26
	109/2	0	04	00
	101/2	0	07	60
	102/1-2-ब	0	00	25
	101/2 भाग	0	07	60
	98/1/2 भाग	0	04	84
	101/1ड भाग	0	04	75
	83 भाग	0	11	94
7. शिरुड	788/1अ	0	30	60
	32/1अ	0	09	72
8. वेल्हाणे बुद्रुख	322/2	0	16	20
	324 भाग	0	12	58
9. तांडा कुंडाणे	71	0	13	50
	122	0	01	80
	73 भाग	0	10	62
10. चिंचखेडे	61/4	0	17	82
	62/2	0	11	53
11. मुक्टी	234/1ड/2भाग	0	04	50
12. नंदाले खुर्द	51/1/2	0	13	68
	35	0	5	40
	72/3/1	0	5	58
	72/3/2	0	22	78
13. सातरणे	73	0	14	94
14. मोहाडो (प्र. डांगरी)	124	0	44	64

[फा. सं. आर-31015/13/2001-ओआर -II]

हरीश कुमार, अवर सचिव

New Delhi, the 17th March, 2004

S.O. 671 .— Whereas, by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2050 dated the 21st July, 2003, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisiton of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated 26th July, 2003, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products through Mumbai-Manmad Pipeline Extension Project from Panewadi (Manmad) in the State of Maharashtra to Manglya (Indore) in the State of Madhya Pradesh by Bharat Petroleum Corporation Limited;

And whereas copies of the said Gazette notifications were made available to the public from 8th September, 2003;

And whereas the competent authority has, under Sub-section (1) of Section 6 of the said Act, submitted its report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Scheduled is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government directs that the right of user in the said land shall instead of vesting in the Central Government, vest on this date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tahsil : Dhule **District : Dhule** **State : Maharashtra**

Name of Village	Gat/Survey No. Numbers	Area		
		Hectors	Ares	Sq. Mts.
1	2	3	4	5
1. Kulthe	174	0	02	88
	7/4	0	08	46
	7/3	0	08	46
	138/B/2	0	04	50
	152/A/1 Pt.	0	06	20
	152/A2/2 Pt.	0	01	70
	152/A/2/1 Pt.	0	07	20
	152/B/2 Pt.	0	16	40
	145 Pt.	0	06	19
	134/1 Pt.	0	02	05
	137/1 Pt.	0	16	64
	7/2/1 Pt.	0	21	20
	62/4 Pt.	0	09	14
2. Mandal	75/1	0	15	48
	75/2	0	14	26
	77/1	0	00	90
	76	0	24	66
	81	0	01	98
	82	0	38	70
	93	0	21	60
	95	0	09	72
	94	0	31	68
	102/3	0	35	82
	102/2-1	0	12	06
	114	0	16	20
	115	0	14	40
	116/7	0	21	06
	102/10 Pt.	0	14	20
	102/8 Pt.	0	44	02
	102/7 Pt.	0	19	61
	102/6/2 Pt.	0	05	20

1	2	3	4	
	116/4 Pt.	0	19	40
	120/2 Pt.	0	17	82
3. Borkund	215/A/1/1 Pt.	0	33	82
	215/A/B/1/1 Pt.	0	04	28
4. Borkund (Ratanpura)	605	0	24	40
	285/2 Pt.	0	09	70
5. Dondvad	59/3	0	06	30
6. Vinchur Budruk	84	0	12	96
	109/1-5	0	19	26
	109/2	0	04	00
	101/2	0	07	60
	101/1-2-B	0	00	25
	102/2 Pt.	0	07	60
	98/1/2 Pt.	0	04	84
	101/1D Pt.	0	04	75
	83 Pt.	0	11	94
7. Shirud	788/1A	0	30	60
	32/1A	0	09	72
8. Velhane Bk.	322/2	0	16	20
	324 Pt.	0	12	58
9. Tanda Kundane	71	0	13	50
	122	0	01	80
	73 Pt.	0	10	62
10. Chinchkhede	61/4	0	17	82
	62/2	0	11	53
11. Mukti	234/1D/2 Pt.	0	04	50
12. Nandale Khurd	51/1/2	0	13	68
	35	0	5	40
	72/3/1	0	5	58
	72/3/2	0	22	78
13. Satarne	73	0	14	94
14. Mohadi (Pra Dangari)	124	0	44	64

[F. No. R-31015/13/2001-OR-II]

HARISH KUMAR, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 20 फरवरी, 2004

का.आ. 672.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी. जी. आई. टी./एल. सी. (आर) (99)/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-02-04 को प्राप्त हुआ था।

[सं. एल-22012/103/2002-आई.आर.(सी-II)]
एन० पी० केशवन, डैस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 20th February, 2004

S.O. 672.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref CGIT/LC(R)(99)/2003 of the Cent. Govt. Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of South Eastern Coalfields Limited, and their workman, received by the Central Government on 19-02-04.

[No. L-22012/103/2002-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT : JABALPUR

Present :

Sri Shrikant Shukla,
Presiding Officer

I. D. No. CGIT/LC(R)(99) of 2003

Between

General Secretary,
Chhattisgarh Khadan-Karkhana Mazdoor Union,
Banki Mongara,
District Korba.

And

Sub.—Area Manager, SECL, Banki Collierty, District Korba.

The Government of India vide its order No. L-22012/103/2002/(IR)(C-II) dated 26-5-2003 has referred following issue for adjudication to Presiding Officer, CGIT, Jabalpur.

"Whether the action of the management of SECL, Banki Colliery, Distt. Korba (Chhattisgarh) in not implementing the provisions/Clause 9.2.3 of the Chapter IX (Social Security) of National Coal Wage Agreement-VI in respect of Sh. Nand Lal, Driver is justified? If not, to what relief is the workman entitled?"

Notices were issued by the Govt. to shri Rambilash Shobhnath, General Secretary, Chhattisgarh Khadan-Karkhana mazdoor Union, Korba and the employer.

S/Shri Rambilash Shobhnath, General Secretary, Chhattisgarh Khadan-Karkhana Mazdoor Union, Korba has filed paper No. 3 stating therein that the worker Shri Nandlal Prasad S/o Sudarshan prasad has already been paid money under Clause 9.2.3 and, therefore, the provision under Clause 9.2.3 is not application in the case of the worker. The worker is entitled to the compensation under Clause 9.2.4 for which the matter has not been referred.

The employer has not filed any written statement. Heard learned General Secretary Shri Rambilash Shobhnath and the representative of the employer.

The General Secretary of the union himself argues that the provisions of Clause 9.2.3 are not applicable and, therefore, there is no question of its implementation. He has stated that the matter should have been referred for non-implementing the provisions of Clause 9.2.4. The representative of the employer has stated that since the General Secretary of the union has already admitted in his statement of claim that the employer has already implemented the provisions under Section 9.2.3 and, therefore, the reference be returned accordingly.

Shri Rambilash Shobhnath has not pressed his claim.

From the statement of claim furnished by the General Secretary of the Union, it is clear that there is no allegation of non-implementing the provision of Clause 9.2.3 of the Chapter IX (Social Security) of National Coal Wage Agreement-VI and, therefore, the reference is accordingly returned answered.

SHRIKANT SHUKLA, Presiding Officer

Dated 5-2-2004

नई दिल्ली, 20 फरवरी, 2004

का. आ. 673.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. सी. सी. एल. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या 16/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-02-04 को प्राप्त हुआ था।

[सं. एल-22012/220/88-डी.IV(बी)]
एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 20th February, 2004

S.O. 673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/1993) of

the Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of S.C.C.L. and their workman, which was received by the Central Government on 19-02-2004.

[No. L-22012/220/88-D.IV (B)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-1 AT HYDERABAD

Present :

Sri S. Bhujanga Rao,
B.Sc., B.L.,

Industrial Tribunal-1.

Dated : 30th day of December, 2003

INDUSTRIAL DISPUTE No. 16 of 1993

Between :

Syed Khaza Pasha,
represented by General Secretary,
Miners & Engineering Workers Union.
Godavari Khani,
Karimnagar District. ....Petitioner.

And

The General Manager,
Area-1, Ramagundam Divn.,
Singareni Collieries Company Limited,
Godavarikhani,
Karimnagar District. ....Respondent.

Appearances :

S/Sri G. Vidyasagar & P. Sudhir Rao, Advocate for the Petitioner.

M/s. K. Srinivasa Murthy, V. Uma Devi & C. Vijayasekhar Reddy, Advocate for the Respondent.

AWARD

The Government of India, Ministry of Labour by its Order dated 29-3-1993 referred the following dispute for adjudication by this Tribunal.

> "Whether the action of the Management of M/s. Singareni Collieries Company Limited, Area-I Ramagundam Division in denying continuity of service and Pay Protection to Shri Syed Khaja Pasha, Fitter, is legal and justified? If not, to what relief the concerned workman is entitled to?"

2. The Workman Syed Khaza Pasha filed claim statement on behalf of the petitioner union, the brief averments of which are as follows :—

The workman was appointed as mazdoor in Category-I on 23-11-1964 in the Singareni Collieries Company Limited. He was promoted to the post of Category-IV in 1966 and he was further promoted to Category-V w.e.f. 1-6-1976. On 14-12-1983 the workman was working in the night shift in 6th Incline, in Godavarikhani, and he met with an accident, as he slipped down while going into the mine. Thereafter he was treated in the local hospital for about one week. As there was no improvement in the sickness of the workman, the Superintendent of Area hospital vide letter dated 12-7-1984 referred the case to Nizam Orthopaedic Hospital, Hyderabad. The workman was treated as inpatient from 16-7-1984 to 9-8-1984 and he was surgically operated upon. The Medical Officer and Neoro Surgeon, vide Certificate dated 9-8-1984 advised rest for one month and fit for duties, thereafter. But without following the advise of the specialised Doctor, the area Medical Board, Singareni Collieries Company Limited vide letter dated 23-11-1984, declared the workman unfit to work as fitter underground. The respondent management without considering whether the petitioner is entitled to work on surface, erroneously passed an order dated 17-3-1985 terminating the services of petitioner with immediate effect on the ground that the Medical Board declared him unfit for further service in the company. Thereafter, the petitioner made representation challenging the illegal action of the management. The Dy. CPM(RG. 1) vide letter dated 1-8-1985 sought for advice by the Superintendent Area Hospital, whether the petitioner is fit to work as fitter at 18 MW Power House, Godavarikhani. The superintendent area hospital has advised that the petitioner is unfit to work in the underground and he is fit to work in the surface. Thereafter, the General Manager, R.G.-1 vide office order date 15-9-1985 appointed the workman as fitter Categroy-IV in the basic pay of Rs. 24.10 in the scale of 24.10 - 35.30 w.e.f. 16-9-1985 for a period of two months, whereas the workman was drawing Rs. 35/- as his basic pay in category-V at the time of termination of his service. Again, the workman was issued office order dated 29-11-1985 appointing him for two months in category-IV w.e.f. 1-12-1985 to 31-1-1986. Again he was appointed vide office order dated 9-2-1986 w.e.f. 10-2-1986 to 9-4-1986. The workman was appointed in the permanent post as fitter category-IV w.e.f. 15-4-1986 at power house Ramagundam. The services of the workman were confirined by an order dated. 25-7-1986. The petitioner was promoted as fitter category-V w.e.f. 1-3-1989 by an order dated 29-6-1989. The action of the respondent-management in terminating the services of the workman w.e.f. 17-3-1985 is wholly illegal and arbitrary. The workman is entitled to be continued in service wihout the order of termination in Category-V.

3. It is further avered, that the workman made several representations to the management during the period from the date of termination of service till reappointment on 13-4-1986, as continous, for all purposes, including seniority, pay protection and other terminal benefits. As per item No. 3 of the Circular the past cases of the employees

in which alternative employments were given are also to be considered in the light of the settlement dated 12-3-1990, if they are continuing on the rolls as on the date of the circular. On a representation by the concerned workman the management rejected the claim by an order dated 27-8-1990, which is wholly arbitrary and illegal. The management by an order dated 21-4-1988, treated the period of absence from 17-3-1985 to 10-9-1985 due to medical unfitness and also intermitent breaks during temporary appointments upto 14-4-1986, as leave on loss of pay, for continuity of service for purpose of gratuity. The management who have considered the above period for continuity of service for purpose of seniority, promotion, pay fixation and other consequential benefits, as the termination itself is illegal.

4. It is further averred that the workman is entitled to be treated on par with his juniors but for his termination. The workman prayed that the action of the management in not giving the continuity of service and pay protection to the concerned workman is illegal, arbitrary and consequentially passed an award directing the management to protect the pay of the workman Syed Khaza Pasha fitter w.e.f. 17-3-1985 with continuity of service and consequential benefits including promotions etc.

5. The respondent management filed counter denying the material allegations made in the claim statement and put the workman to strict proof of the same. The respondent further admitted that the workman while working in GDK-VI on 14-12-1983 in 3rd shift, met wtih minor accident as he slipped and fell down and got injury to the right thumb. The workman was given treatment in Singareni Collieries Hospital from 15-12-1983 to 22-12-1983 and he was declared fit to resume duty. Workman discharged his normal duties. Once again he reported that he was not keeping got health which resulted his case has been referred to NIMS Hyderabad by letter dated 12-7-1984 and the workman in dispute was treated there as inpatient from 16-7-1984 to 9-8-1984 and he had undergone operation. The operation which workman in dispute had undergone has nothing to do with the accident occurred to him in the mine. The Nizam's hospital cleraly certified that the workman fit to resume duty after taking rest for one month from the date of discharge i.e., 9-9-1984.

6. It is further contended that when the workman came back with fitness certificate, according to the mines rules the management referred him to company's hospital. The Medical Board on 23-11-1984 examined the workman and found that the workman was unfit to work as fitter underground and issued letter dt. 23-11-84. The workman stated that he was not in a position to work either underground or on surface as he was very weak that was the reason why he was not given any job. Later, after he gained strength, the workman made a representation to the management for alternative employment on humanitarian grounds. Once again the workman was sent to the Doctors for verification of his physical fitness, who had declared him physically fit to work on surface and imposed some restrictions in view of his health conditions, that the workman should not carry on heavy weights, or lift heavy weights, at the work spot. Because of his own health conditions the management informed him that they would be giving a light job if he was prepared to do. The workman submitted in writing that he was prepared to work in category IV wages and he was appointed a fresh at 18MW power house Godavari Khani on 11-9-1985, initially on basic pay of Category-IV and subsequently, he was confirmed on 15-7-1986. After completion of three years service in Category-IV, he was given promotion to Category-V. Though, fresh appointment was given to the workman because of the representation made by the petitioner union and workman in dispute, as a special case the management has granted continuity of service treating the intervening period i.e., from the date of unfitness to the date of reappointment as leave on loss of pay, only for the purpose of gratuity.

7. The respondent further contended that promotions in the company are not automatic. To go, for higher, post one has to pass eligibility test, basing on merit and seniority and availability of vacancies management will be posting the selected candidates. As such, no employee has a right to demand as if it is an automatic promotion, muchless he can claim promotion on the ground that he has undergone interview in April 1984. Every year higher category posts would be indentified and basing upon that the candidates will be called for interview and after the panel is completed, the same panel will not be continued for next year, that is to say, any panel of selection prepared will be valid only for one year and it lapses after one year and the candidates listed in the panel would have to appear once again for selection test. So the question of the workman claiming promotion, in view of his attending interview in 1984 is not tenable and does not arise. Further, the claim of the promotion is a stale claim and it is also well settled principle of law that stale claims cannot be entertained. Therefore the allegations that the workman was eligible for promotion to Category-VI in 1984 and that promotion should be given after his reappointment in alternative employment as not true. The workman is not entitled for in protection and so far as continuity of service, it has been given. The question of discharging the workman for unfitness cannot be treated as illegal termination, on the other hand, he was given alternative job which is not in continuation of his earlier employment in Category-V in which he was working in 1985. So the question of giving seniority or considering him for promotion taking his previous service prior to the medical unfitness in 1985 does not arise.

8. It is further contended by this respondent that the Circular dated 15-6-1990 is not applicable to the workman in dispute. The said circular is applicable to those who are declared unfit for doing the duties, which they are doing and yet to be provided alternative employment on the date of the circular. The circular is prospective in

operation. The management is right in rejecting the workman's claim for continuity of service, etc., as he has been provided alternative employment in 1985 and everything has been settled in 1985 and there is no question of reopening of his case and giving certain benefits does not arise. The allegations that the order dated 27-8-1990 is illegal and arbitrary is not correct. The workman cannot compare himself with others who got promotions from time to time from 1984. The juniors to whom the workman compares himself are always fit to do their jobs and they are continuously and effectively discharging their duties as Fitter from 1984 and put in continuous service. This respondent further contended that the standard of medical examination has been prescribed in Mines Rules and prescribed form is given to record the examination details by the Doctors. The examination done by any outside Doctor in respect of a person to be employed in a mine cannot be treated as valid one in the company. One Bellampalli Chandriah with whom the workman compared was never declared unift by the medical board and he was never out of service. The workman cannot compare his case with that of Sri Bellampalli Chandriah. There are no merits in the claim statement. Therefore, the claim of the workman may be dismissed.

9. The then Presiding officer of this Tribunal passed an Award dated 23-5-1994 holding that the action of the management in not giving continuity of service and pay protection to the workman is arbitrary and unjustified. Aggrieved by the said Award the management filed Writ Petition No. 12775/95 and the Writ Petition was allowed confirming the Award passed by this Tribunal. Aggrieved by the order in the Writ Petition dated 27-3-2003 the management preferred Writ Appeal No. 1195/2003 on the file of the Hon'ble High Court of A.P. The Writ Appeal was allowed on 7-8-2003 setting aside the award passed by this Tribunal dated 23-5-1994 and the matter was remanded, the dispute, for fresh consideration and disposal by this Tribunal in accordance with the law.

10. After remand the workman alone was examined as WW1 and got marked Exs. W1 toW17. On behalf of the Respondent management it's Deputy Personal Manager was examined as MW1 and filed Exs. M1 to M7.

11. Now, the point for consideration is whether the action of the respondent management in denying continuity of service and pay protection to the workman Syed Khaja Pasha Fitter is legal and Justified? if not, to what relief the workman concerned is entitled?

12. The workman was appointed as Mazdoor in the respondent company in Category-I w.e.f. 23-11-1964. Later he was promoted to Category-IV in 1966 and Category-V w.e.f. 1-6-1976. He became eligible for being promoted to Category-VI. The workman met with an accident on 14-12-1983, while working in the night shift of VIth Incline Godavari Khani. After recovery the medical officer and Neoro Surgeon issued a certificate of fitness dated 9-8-1984 certifying that he was fit for duty after taking rest for a period of one month. The workman joined duty and discharged his normal duties for about five months. Once again the workman reported that he was not keeping good health. Then the management has referred the case of the workman to NIMS Hyderabad vide letter dated 12-7-1984 and the workman was treated thereby as inpatient from 16-7-1984 to 9-8-1984 and he had undergone operation. Post Operation treatment was also taken by him and then the workman took rest. The NIMS hospital certified their letter dated 9-8-1984, that the workman fit to resume duty after taking rest for one month. The medical board of the respondent company examined the workman on 23-11-1984 and the Medical Board did not agree with the certificate issued by the NIMS hospital and declared the workman to be unfit to hold the post in category-V (underground) by its order dated 23-11-1984. There upon the service of the workman were terminated on 12-3-1985 by the respondent management. Later, on the representation made by the workman to the management, the workman was sent to the Doctors for verifying his physical fitness who has declared him physically fit to work on surface, imposing certain conditions namely the workman should not carry on heavy weights and lift heavy weights. Later the workman submitted in writing that he was prepared to work in category-IV wages. On the said written representation, the workman was appointed as fitter on 11-9-1985 on the an initially basic pay of Category-IV on surface and subsequently he was confirmed on 15-7-1986, after completion of three years service in Category-IV, the workman was promoted as fitter category-V w.e.f 1-3-1989 by an order dated 29-6-1989. Thereafter the petitioner union exposed the cause of the workman. After the conciliation meeting was failed, the Government of India did not refer the matter for adjudication. The workman has filed writ petition No. 17667/1989 before the Hon'ble High Court of A.P. Hyderbad and on the directions of the High Court, the Government referred the dispute to this Tribunal for adjudication. All these facts are not in dispute and these facts arca also spoken to by WW1 and MW1.

13. The contention of the workman and his evidence as WW1 is that in the accident he sustained injury to his waist and suffered from severe pain. He was treated for about six days in ESI Dispensary Singareni Collierics Company. Though he was not recovered from the injury and was suffering from severe pain, the management insisted him to work and as such he joined duty and worked for about five months with pain. As he could not get relief on the advise of the Doctor at Singareni he was referred to NIMS, Hyderabad for treatment.

14. On the other hand the contention of the respondent management and the evidence of MW1 is that on 14-12-1983 in the 3rd shift the workman met with a minor accident as he slipped and fell down and got injury to right thumb. He was given treatment in the company's hospital from 15-12-1983 to 22-12-1983. As he was declared fit to resume duty, the workman resumed duty and discharging his normal duties. Once again the workman reported that

he was not keeping good health and as a result he was referred to NIMS Hospital. Where the workman underwent operation and that the operation which workman had undergone has nothing to do with the accident occured to him in the mine.

15. Except the interested testimony of WW1 there no evidence to prove that he sustained injury to his waist for which he underwent operation at NIMS Hyderabad. WW1 during his cross examination has categorically admitted that he was treated as inpatient for six days in the area hospital Singareni and that after six days treatment he was discharged and declared fit to resume duties and accordingly he resumed duty. WW1 has admitted in his cross examination that he has not mentioned in the claim statement that he was asked to resume duty by the management even though he was not recovered from the injury sustained by him in the accident and he was referred to NIMS Hyderabad on his representation. He has also admitted that it is not mention in the claim statement that he was taking treatment even after he resumed duty. It is suggested to WW1 that he was discharged from the area hospital after he recovered fully from the injury sustained by him in the accident and that the injury sustained by him in the accident has nothing to do with the treatment given in the NIMS. If really the workman was suffering from the injury sustained by him in the accident and that the management forced him to resume duty, he would have question the action of the management directly or through their union. The conduct of the workman in resuming duty without any protest or complaint to the union goes to show that he resumed duty after six days treatment in the area hospital Singareni, after he became fully fit to resume duty. In view of the above facts and circumstances I am inclined to accept the contention of the workman that though he was not recovered fully from the injury sustained by him in the accident, he was asked by the management to resume duty, as it is an after thought and unbelievable. Except the interested testimony of WW1, there is no evidence on record to prove that the operation which workman has undergone at NIMS Hyderabad has got nexus with the injury sustained by him in the accident. The workman has not placed any material to show that he had taken treatment for the injury sustained by him in the accident in any hospital after he resumed duty. Therefore there is no cogent materials on record to show that the workman sustained injury to his waist in the accident that occured on 14-12-1983.

16. As seen from Ex. W2 the xerox copy of the certificate dated 9-8-1984 issued by the Neuro Surgeon NIMS Hyderabad, it is certified by the Doctor that the workman was fit to resume duties after one month rest. It is mentioned in the certificate that the workman had undergone operation namely, LAMINEOTORY & DISCOIDECTOMY for PIVD at L4-5, L5-S1. The contention of the respondent and the evidence of MW1 is that when the workman came back with fitness certificate i.e Ex. W2, according to the Mines Rules, the management referred him to the company's hospital. The Medical Board examined the workman on 23-11-1984 and issued the original of Ex. W3 Medical Certificate declaring that the workman was unfit to work as fitter underground and basing on the original of Ex. W3 certificate, the management issued the original of Ex. W4 proceedings dated 17-3-1985 terminating the workman from the company services.

17. The workman has admitted the above case of the respondent but contended that the respondent management without considering whether the workman is entitled to work on surface erroneously passed an order dated 17-3-1985 terminating the services of the workman. On the other hand the contention of respondent-management is that the workman stated that he was not in a position to work either underground or surface as he was very weak and that was the reason for he was not given any job. It is suggested to WW1 during his cross-examination that he has told the management that he was unable to work either underground or on surface as fitter. During his cross-examination, WW1 has categorically admitted that he has not questioned the termination order in any Forum or in any Court of Law. If really, the workman was fit to discharge his duties as fitter on surface he could have questioned the termination order or he would have given representation immediately to the management either directly or through union, questioning the termination order and seeking appointment as fitter to work on surface. Under these circumstances, the contention of the respondent management that the workman was not fit to discharge his duties as a fitter either in underground or on surface, the workman was not given any job and he was terminated from service appears to be true. There is nothing to show that the termination order dated 17-3-1985 is illegal and arbitrary.

18. The contention of the respondent management and the evidence of MW1 is that subsequently after gaining strength the workman has made a representation vide Ex. M1 (Ex.M7 is the original of M1) to the management for alternative employment on humanitarian grounds, expressing his willingness to work in Category-IV. Basing on that representation, the workman was sent to the Doctor requesting to verify whether the workman was physically fit to work on surface, vide Ex. W5 and the Doctor on examination of the workman declared that the workman was physically fit to work only on surface, which does not involve heavy weight lifting vide Ex. M4 considering his representation dated 9-9-1985 the workman was appointed afresh in Category-IV wages at 18 MW PHI GDK of 11-9-1985 and on an initial basic pay of Category-IV wages vide Ex. M5 order dated 15-9-1985 and after completion of three years service in Category-IV he was promoted to Category-V. The workman as WW1 during his cross-examination has admitted all the above facts. In the claim statement, while admitting that he has given Ex. M1 representation to the management, the workman has stated that he has only sought for reemployment on surface and at any rate the said representation cannot be looked into for

the purpose of denying continuity of service, pay protection etc. and that the said letter was taken under duress and agony of unemployment. During his evidence the workman as WW1 has not spoken anything about the alleged duress in his chief examination, but during his cross examination contrary to the above statement has voluntarily stated that he gave Ex.M1 representation when the management offered to give job if he give such representation. Absolutely, there is no evidence to show that Ex. M1 representation was taken from the workman by the management under duress. During his cross examination WW1 has admitted that he was appointed afresh on 25-11-1985 and that he had not question the fresh appointment order in any forum or in any Court. If really the workman was physically fit to resume duty, he would have not kept quite for a long time from 1985 in which year he was reappointed in Category-IV till he filed the Writ Petition No. 17637/85 in the High Court of Andhra Pradesh.

19. The contention of the respondent and the evidence of MW1 is that though the workman is not entitled for appointment, as a special case, the respondent has appointed the workman in category-IV wages, In view of the representation given by the union and the workman., as a special case and the respondent management has granted continuity of service treating the intervening period i.e from the date of unfitness to the date of reappointment as leave on loss of pay only for the purpose of gratuity vide Ex. M6 order dated 21-4-1988. In view of the evidence on record, there can be no doubt that the workman's capacity to discharge his duties so effectively as he was previously doing has been reduced to a great extent. Therefore in my considered view the period of unfitness cannot be treated as simply leave. He was provided with alternative job that to with certain restrictions. As such the question of treating the period in which he was out of employment as if he was on leave does not arise. The workman was informed under the original of Ex.W11 letter from the management that he is not entitled to service benefits. The contention of the workman that the management is responsible for his out of service and deprivation is not acceptable as there is no evidence in support of the same.

20. WW1 has further stated in his evidence that under the rules and regulations of Singareni Collieries Company Limited who ever met with an accident and joins duty after recovery the management provided all benefits treating the absent period as continuity of service for getting all benefits. He compared his case with one Mr. Jeedula Shankar and filed Ex. W16, the xerox copy of the office order dated 1-8-1996, where under the absent period of the said Jeedula Shankar due to medical unfitness has been ordered to be counted for seniority and for promotion. One Phandir Swamy also got benefits for the period of absence on account of medical unfitness. He has not filed any documented in support of the same. As seen from claim statement, the workman compared his case with that of one Sri Bellampalli Chandriah and the respondent has stated in his counter that the said Chandraiah never declared unfit by the medical board and he was never out of service and as such the petitioner cannot compared his case with that of the said Chandraiah. In the claim Statement he has not mentioned anything about the said Jeedula Shankar or Kumar, for the first time in his evidence the workman compared his case with that of Jeedula Shankar. As seen from Ex. W16, the appointment of the said Shankar has been protected subsequent to his medical unfitness as per the direction of the Hon'ble High Court in Writ Petition No. 1402/92. The full facts of the case of the said Shankar are not available in Ex. W16 WW1 has also not stated about the facts of that case. Therefore, the respondent cannot be directed to give benefits to the workman in dispute on par with Jeedula Shankar, basing on Ex. W16.

21. In view of the facts and circumstances discussed above, the workman is not entitled for continuity of service and pay protection. Therefore, I have no hesitation to hold that the action of the management in denying continuity of service and pay protection to the workman Syed Khaja Pasha is legal and justified. Hence the point is answered accordingly.

22. In the result, the Industrial Dispute is dismissed holding that the action of the respondent-management in denying continuity of service and pay protection to the workman Syed Khaza Pasha Fitter is legal and justified. Hence reference is answered accordingly and Award is passed accordingly.

Dictated to the Shorthand Writer, transcribed by him, corrected by me and the seal of this Court on this the 30th day of December, 2003.

S.BHUJANGA RAO, Industrial Tribunal-I

Appendix of Evidence :

Witness Examined for Petitioner	Witnesses Examined for Respondent
WW1 Syed Khaza Pasha	MW1 C. Gopal Rao (on Affidavtit)

Documents marked for the Petitioner/Workman

Ex. W1 Xerox copy of letter dt. 12-7-84 addressed by Area Hospital, Godavarikhani to the Superintendent NIMS

Ex. W2 Xerox copy of the fitness certificate issued by NIMS

Ex. W3 Xerox copy of the medical Board decision dt. 23-11-1984

Ex. W4 Xerox copy of termination order dt. 17-3-1985 issued to WW1.

Ex. W5 Xerox copy of the certificate issued to WW1 giving posting dated 1-8-1985.

Ex. W6 Xerox copy of office order giving posting to WW1

Ex. W7 Xerox copy of office order extending the temporary service by two months from 10-2-1986.

Ex. W8 Xerox copy of the office order extending the probation.

Ex. W9 Promotion order to WW1 promoting him to Category-V from Category-IV dt. 21-6-1989.

Ex. W10 Xerox copy of the letter issued to WW1 letter.

Ex. W11 Letter dt. 27-8-1990 letter issued to WW1 by G.M. RG-I.

Ex. W12 Xerox copy of the representation ALC, Hyderabad.

Ex. W13 View submitted by the Union to ALC, Hyderbad.

Ex. W14 Minutes of failure report submitted by ALC, Hyderabad.

Ex. W15 Proceedings issued to the A.S Mohan Rao and other fitters dt. 18-3-1984.

Ex. W16 Xerox copy of office order dt. 1-8-1996 issued to J. Shankar.

Ex. W17 Xerox copy of the proceedings issued to the WW1 regarding attaining his age of superannuation.

Documents marked for the Management:

Ex. M1 Xerox copy of the letter given by WW1 dt. 9-9-1985.

Ex M2 Letter dt 23-11-1984 of Specialist Orthopaedic Surgeon to the Executive Dy. G. D. K.

Ex. M3 Letter dt. 17-3-1985 of Addl . CMES Co. Ltd. to Kaza Pasha (WW1).

Ex. M4 Letter of the Superintendent Area Hospital regarding the fitness of WW1.

Ex M5 Office order dt. 15-9-1985 issued to WW1 appointing him as temporary fitter.

Ex. M6 Letter of the General Manager Ramagundam Area-I condoning to break of service treating it as medical unfitness dt. 21-4-1988.

Ex M7 Representation given by WW1 (original of Ex. M1)

नई दिल्ली, 20 फरवरी, 2004

का.आ. 674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर [संदर्भ संख्या सी. जी. आई. टी.-एल. सी. (आर) (70)/2000] को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-02-2004 को प्राप्त हुआ था।

[सं. एल-22012/430/1999-आई.आर (सीएम-II)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 20th February, 2004

S.O. 674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Ref. CGIT/LC(R)(70)/2000] of the Cent. Govt. Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of South Eastern Coalfields Limited, and their workmen, received by the Central Government on 19-02-2004.

[No. L-22012/430/1999-IR (CM-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT : JABALPUR

PRESENT:

Sri Shrikant Shukla, Presiding Officer

I. D. No. CGIT/LC(R)(70) of 2000

BETWEEN:

Secretary, Sanyukta Koyala Mazdoor Sangh (AITUC), SECL, Balgi, District Korba

AND

Sub—Area Manager, SECL, Balgi Project, District Korba.

The Government of India vide its Order No. L-22012/430/99/(IR)(CM-II) dated 29-2/7/3-2000 has referred following issue for adjudication to Presiding Officer, CGIT, Jabalpur.

"Whether the action of the management of Balgi Project,, SECL, in denying promotion to Sh. Umesh Kumar Sahu in Category—IV w.e.f. 5-12-94 i.e., the date from which his junior Sh. Ghanshyam Tripathi was given promotion in Cat. IV is justified? If not, to what relief the workman concerned is entitled?"

The Secretary of Sanyukta Koyala Mazdoor Sabha has filed statement of claim stating that Shri Ghanshyam Tripathi, Mechanical Helper Cat. II who was junior to Shri Umesh Kumar Sahu has been promoted to Cat. IV in violation of Cadre Scheme and, therefore, the dispute be settled.

Employer has filed a preliminary objection and a written statement denying the claim of the Sangh. The employer has submitted that South Eastern Coalfields Ltd. company is registered under Company Act and the Sangh has brought the claim against Sub-Area Manager, Balgi Project which is tenable, as SECL company has its own entity and is a legal person according to law. Any claim against the company may be settled but the Sangh has filed claim against the officer of the company which is not maintainable. It is further stated that the cause of action arose on 5-12-94 but the Sangh has filed the dispute in the year 98, after a lapse of 4 years and on the account of delay and laches: the Sangh cannot succeed. It is also stated that the Sangh has not filed the specific claim statement. It has been denied that Shri Ghanshyam Tripathi was junior to Shri Umesh Kumar Sahu. It is also alleged that Sri Ghanshyam Tripathi with whom the Sangh is comparing the case of Shri Umesh Kumar Sahu is not justified because Shri Ghanshyam Tripathi is meritorious and dedicated worker and he has the capacity of doing all job of Fitters independently and he is capable of shouldering the

responsibility. Shri Tripathi could expose/develop himself and he could independently shoulder the responsibility of Cat. IV as such he was authorized to work as Cat. IV and he was satisfactorily discharging the job of Cat. IV for a period of 19 months. The DPC considering the merit of the case had recommended for regularization of Shri Tripathi as Cat. IV and DPC report having approved, office order regularizing Shri Ghanshyam Tripathi was issued. The promotion/regularization of Shri Tripathi was done for reasons that he was independently discharging the duties of higher Category to the satisfaction of Shift in charge and he was neither junior to Shri Umesh Kumar Sahu nor the right of Shri Umesh Kumar Sahu has been infringed thereby. Accordingly, the employer has stated that the claim of the Sangh be dismissed.

On the date fixed for rejoinder, the Secretary of the Sangh filed application of the worker Shri Umesh Kumar Sahu stating there in that he has already been promoted in the Cat. IV and, therefore, the dispute has ended.

On the date of hearing, the statement of Secretary has been recorded. In his statement, the Secretary Shri Kaushir Kumar Sahu has stated that the management has promoted Shri Umesh Kumar Sahu and, therefore, the dispute has ended and now there is no need to adjudicate the reference and, therefore, no dispute award be passed.

Heard the Secretary of the Sangh and the representative of employer. Since the dispute has ended according to the Secretary of the Sangh and, therefore, the reference is returned un-answered.

Dated : 5-2-2004.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 20 फरवरी, 2004

का.आ. 675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर [संदर्भ संख्या सी. जी. आई. टी./एल. सी. (आर) (71)/2000] को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-02-2004 को प्राप्त हुआ था।

[सं. एल-22012/433/1999-आई.आर.(सीएम-II)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 20th February, 2004

S.O. 675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Ref. No. CGIT/LC(R)(71)/2000] of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of South Eastern Coalfields Ltd. and their workmen, received by the Central Government on 19-02-2004.

[No. L-22012/433/1999-IR (CM-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT : JABALPUR

PRESENT:

Sri Shrikant Shukla, Presiding Officer

I. D. No. CGIT/LC(R)(71) of 2000

BETWEEN:

Secretary, Sanyukta Koyala Mazdoor Sangh (AITUC), SECL, Balgi, District Korba.

AND

Sub-Area Manager, SECL, Balgi Project, District Korba.

The Government of India vide its order No. L-22012/433/99/IR (CM-II) dated 29-2/7-3-2000 has referred following issue for adjudication to Presiding Officer, CGIT, Jabalpur.

> "Whether the action of the management of Balgi Project, SECL, in denying promotion to Sh. Mukund Ram Chauhan in Cat. IV w.e.f. 5-12-94 i.e. the date from which promotion was given to his junior Sh. Ghanshyam Tripathi is legal and Justified? If not, to what relief the workman is entitled?"

The Secretary, Sanyukta Koyala Mazdoor Sangh (AITUC) which shall hereinafter called as Sangh, has submitted the statement of claim alleging therein that the management violating the provisions of Cadre Scheme promoted Shri Ghanshyam Tripathi S/o Girija Prasad who was junior to the worker Shri Mukund Ram Chauhan was promoted in the Mechanical Fitter Cat. IV and accordingly he requested that the matter be settled early.

The Employer has filed a preliminary objection stating that the union has not filed specific claim statement. It is also alleged that the worker Shri Mukund Ram Chauhan never objected to the promotion of Shri Ghanshyam Tripathi who was promoted on 5-12-94. First time on 9-10-98, after a lapse of 4 years, the worker raised the industrial dispute before Asstt. Labour Commissioner (C), Bilaspur and, therefore, the claim of the claimant may only be dismissed on the ground of delay and laches. Denying the claim of the Sangh, the employer has alleged that the South Eastern Coalfields Limited is a subsidiary company of coal India Limited and registered under the Company Act. The company has its own entity and legal person according to law and hence the claim application ought to have been filed against the company and not against the officer of the company. Since the claim has been filed against the Sub-Area Manager, Balgi Project, as such it is not maintainable because this claim ought to have been raised against the company not representing officer of the company and hence the claim application of Sangh be dismissed.

The employer has also filed written statement and has alleged that Shri Ghanshyam Tripathi with whom the applicant is comparing himself is not junior to Shri Mukund Ram chauhan, both of them joined at Balgi Project on

19-5-90 as Cat. I General Mazdoor and both of them were promoted to the post of Fitter Helper Cat. II on 1-12-92 and it is seen from the office order that Sri Ghanshyam Tripathi is more senior than Shri Mukund Ram Chauhan. It is further stated that Shri Ghanshyam Tripathi with whom Shri Mukund Ram Chauhan is comparing his case is highly qualified, meritorious and dedicated worker. Shri Ghanshyam Tripathi is having the capacity for doing all jobs of Fitter independently and shoulder the responsibilities. As such he was authorized to work as Cat. IV and he was satisfactorily discharging the job of Cat. IV for a period of 19 months. The DPC was conducted to regularize the workmen working in higher grade by office order dated 10-6-94. The DPC met on 5-12-94 and examined the cases of workmen working in higher grade. The DPC considering the merit of the case has recommended for regularization of Shri Ghanshyam Tripathi as Cat. IV and DPC report having approved office order regularizing Shri Tripathi was issued. On the other hand, Shri Mukund Ram Chauhan never came forward to bear any responsibility alone nor discharge duties of the higher category. There is no justification in the case of the Secretary, hence the claim of the Sangh be dismissed.

During the pendency of the case on the date fixed for rejoinder, the Secretary of the Sangh filed an applicaiton purported to be that of Shri Mukund Ram Chauhan wherein it is mentioned that he has already been promoted in Mechanical Fitter Cat. IV and, therefore, the case of his promotion be rejected.

In the interest of justice, the statement of Secretary Shri Kaushir Kumar Sahu was recorded on 4-2-2004. He has stated on oath that since the dispute is over, therefore, the reference does not require any adjudication any more.

Heard representative of management and the Secretary of the Sangh. It is admitted that there is no dispute between the parties any more. Therefore, issue is returned un-answered.

Dated : 5-2-2004. SHRIKANT SHUKLA.
Presiding Officer

नई दिल्ली, 20 फरवरी, 2004

का.आ. 676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर [संदर्भ संख्या सी.जी.आई.टी./एल.सी.(आर) (69)/2000)] को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-02-2004 को प्राप्त हुआ था।

[सं. एल-22012/431/1999-आई.आर.(सी एम-II)]
एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 20th February, 2004

S.O. 676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Ref. CGIT/LC(R)(69)/2000] of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of South Eastern Coalfields Ltd., and their workmen, received by the Central Government on 19-02-2004.

[No. L-22012/431/1999-IR (CM-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT : JABALPUR

PRESENT :

SRI SHRIKANT SHUKLA, PRESIDING OFFICER

I. D. No. CGIT/LC(R)(69) of 2000

BETWEEN:

Secretary, Sanyukta Koyala Mazdoor Sangh (AITUC), SECL, Balgi, District Korba

AND

Sub-Area Manager, SECL, Balgi Project, District Korba.

The Government of India vide its order No. L-22012/431/99/(IR)(CM-II) dated 29-2/7-3-2000 has referred following issue for adjudication to Presiding Officer, CGIT, Jabalpur.

> "Whether the action of the managentent of Balgi Project, SECL, in denying promotion to Sh. Sudheer Ekka in Category-IV w.e.f. 5-12-94 i.e., the date from which his junior Sh. Ghanshyam Tripathi was given promotion in Cat. IV is justified? If not, to what relief is the workman concerned is entitled?"

The Secretary of Sanyukta Koyala Mazdoor Sabha has filed statement of claim stating that Shri Ghanshyam Tripathi, Mechanical Helper Cat. II who was junior to Shri Sudheer Ekka has been promoted to Cat. IV in violation of Cadre Scheme and, therefore, the dispute be settled.

Employer has filed a preliminary objection and a written statement denying the claim of the Sangh. The employer has submitted that South Eastern Coalfields Ltd. company is registered under Company Act and the Sangh has brought the claim against Sub-Area Manager, Balgi Project which is tenable, as SECL company has its own entity and is a legal person according to law. Any claim against the company may be settled but the Sangh has filed claim against the officer of the company which is not maintainable. It is further stated that the cause of action arose on 5-12-94 but the Sangh has filed the dispute in the year 98, after a lapse of 4 years and on the account of delay and laches; the Sangh cannot succeed. It is also stated that the Sangh has not filed the specific claim statement. It has been denied that Shri Ghanshyam Tripathi was junior to Shri Sudheer Ekka. It is also alleged that Sri Ghanshyam Tripathi with whom the Sangh is comparing the case of Shri Sudheer Ekka is not justified because Shri Ghanshyam Tripathi is meritorious and dedicated worker and he has

the capacity of doing all job of Fitters independently and he is capable of shouldering the responsibility. Shri Tripathi could dispose and he develop himself and he could independently shoulder the responsibility of Cat. IV as such he was authorized to work as Cat. IV and he was satisfactorily discharging the job of Cat. IV for a period of 19 months. The DPC considering the merit of the case had recommended for regularization of Shri Tripathi as Cat. IV and DPC report having approved, office order regularizing Shri Ghanshyam Tripathi was issued. The promotion/regularization of Shri Tripathi was done for reasons that he was independently discharging the duties of higher Category to the satisfaction of Shift in charge and he was neither junior to Shri Sudheer Ekka nor the right of Shri Sudheer Ekka has been infringed thereby. Accordingly, the employer has stated that the claim of the Sangh be dismissed.

On the date fixed for rejoinder, the Secretary of the Sangh filed application of the worker Shri Sudheer Ekka stating therein that he has already been promoted in the Cat. IV and, therefore, the dispute has ended.

On the date of hearing, the statement of Secretary has been recorded. In his statement, the Secretary Shri Kaushir Kumar Sahu has stated that the management has promoted Shri Sudheer Ekka and, therefore, the dispute has ended and now there is no need to adjudicate the reference and, therefore, no dispute award be passed.

Heard the Secretary of the Sangh and the representative of employer. Since the dispute has ended according to the Secretary of the Sangh and, therefore, the reference is returned un-answered.

Dated : 5-2-2004.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 20 फरवरी, 2004

का.आ. 677.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर [संदर्भ संख्या सी. जी. आई. टी./एल. सी. (आर) (85)/2000] को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-02-2004 को प्राप्त हुआ था।

[सं. एल-22012/440/1999-आई.आर.(सीएम-II)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 20th February, 2004

S.O. 677.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Ref CGIT/LC(R)(85)/2000] of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of South Eastern Coalfields Ltd. and their workmen, received by the Central Government on 19-02-2004.

[No. L-22012/440/1999-IR (CM-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT : JABALPUR

PRESENT:

Sri Shrikant Shukla, Presiding Officer

I. D. No. CGIT/LC(R)(85) of 2000

BETWEEN:

Secretary, Sanyukta Koyala Mazdoor Sangh (AITUC), SECL, Balgi, District Korba

And

Sub—Area Manager, SECL, Balgi Project, District Korba.

The Government of India Ministry of Labour, vide Order No. L-22012/440/99/IR (II) dated 29-5-2000, referred the following issue for adjudication to the Presiding Officer, CGIT, Jabalpur.

> "Whether the action of the management of Balgi Project, M/s S.E.C.L. in denying promotion to Shri. Kheleswar Prasad Sahu in Cat. IV w.e.f. 5-12-94 I.E. the date from which his junior Shri Ghanshyam Tripathi was promoted in Cat. IV is justified? If not, what relief the workman is entitled?"

The worker did not file any statement of claim for the last about 3 years and today the Secretary Sanyukta Khandan Mazdoor Sangh (AITUC), Shri Koshir Kumar Sahu has filed an application of the worker Shri Kheleshwar Prasad Sahu, stating that worker has already been promoted in Cat. IV and, therefore, the dispute is over.

I have taken the statement of Shri Koshir Kumar Sahu, the Secretary, who has stated on oath that he is the Secretary of the Sangh and has stated that the worker has already been promoted and there after he does not want to proceed with the case and the reference be returned un-answered.

The previous Secretary, Mr. Rajesh Pandey, was present in the Court and his statement has also been recorded and he has corroborated the facts presented by present Secretary.

The issue referred was whether the action of the management of Balgi Project of SECL in denying the promotion of Shri Kheleshwar Prasad Sahu is justified. Since the workman has already been promoted and the union does not want to, the reference to be adjudicated and the A.R. of the employer also agrees with the Sangh, therefore, in the interest of justice, the issue referred is un-answered.

Dated : 3-2-2004

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 20 फरवरी, 2004

का. आ. 678.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. एच.एन. सोमाया एण्ड कं. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई नं. 1, के पंचाट (संदर्भ संख्या 38/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-02-2004 को प्राप्त हुआ था।

[सं. एल. 29012/118/99-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th February, 2004

S. O. 678.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2000) of Central Government Industrial Tribunal-cum-Labour Court Mumbai No. 1, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s H.N. Somaiya & Co. and their workmen, which was received by the Central Government on 20-02-2004.

[No. L-29012/118/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, AT MUMBAI

PRESENT:

Shri Justice S.C. Pandey, Presiding Officer

REFERENCE NO. CGIT-38 OF 2000

PARTIES : Employers in relation to the management of M/s. H.N. Somaiya & Co.,

AND

Their Workmen Shri Shamsher Khan Ghoush Khan

APPEARANCES:

For the Management : Shri N. Thakkar

For the Workmen : Shri Abhay Kulkarni, Advocate

State : Maharashtra

Mumbai, dated, the 30th day of January 2004.

AWARD

1. This is a reference under clause (d) of Sub-section 1 and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short). The terms of the reference dated 24-5-2000 are as follows :

"Whether the action of the management of M/s. H.N. Somaiya Stone Mine Co. Mumbai, in non-payment of leave salary and bonus for the period of 1995-96 and 1996-97 to Shri Shamsher Khan Ghoush Khan is justified. If not, to what relief the workmen is entitled ?"

2. The Shamsher Khan Ghoush Khan the workman is represented by the Maharashtra Kamgar Union. According to statement of claim, the workman was employed by H.N. Somaiya and company (the company for short) as Begari. He retired on 29-11-2000 during the pendency of this reference. The workman claimed that he was not paid his legal dues like leave salary, bonus and other retrial dues after retirement. The workman claimed that despite by requests by the workman and the union he did not receive any amount. The workman was getting Rs. 3,450/- per month. The reason for refusal to pay the dues to workman was that the employer was seeking eviction of the workman and other employees from hutments. The employer did not pay him the dues with a view to put pressure upon the workman. Thereafter the industrial dispute was raised on behalf of the workman. On failure of the conciliation report the matter was reported to the Central Government. The workman claimed that he estimated his claim to the extent of Rs. 1,50,000/- He claimed interest thereupon at rate of 20% per annum.

3. The company denied the claim of the union stating that the workman was not paid his legal dues. It was alleged that workman was occupying the hut, which belonged to the company. The company asked him to vacate the same. He did not do so. The workman caused a loss of Rs. 1,50,000/- by refusing to vacate the hut occupied by him and instigating other workmen. It was alleged that the company wanted to make further excavation as its reserves had depleted. The hut of the workman came in the way. The workman was offered new hutment. Initially the workman accepted the proposal. But subsequently he joined other workmen and staged a 'rasta rooko'. There was damage to the road. The workman had thus caused damage to the extent of Rs. 1.50 lakhs. the pay of the workman was Rs. Rs. 2,990/- per month. The company wanted the workman to vacate but he claimed Rs. 1,50,000. No rejoinder was filed.

4. The workman examined himself in support of his case. The workman stated in his affidavit that he retired on 29-11-2000. He was offered Rs.2,990/-. He stated that he was not given his legal dues amounting Rs.1,50,000/-. It was stated that company admitted these dues. The cross-examination was admitted to loss caused by refusal to move from the premises.

5. The company filed the statement of its Manager Shri N.K. Thakkar. He stated that workman retired on 29-11-2000. It was alleged that the workman had caused the loss to company by rasta rooko. The company in pay was entitled to adjust legal dues such as gratuity, bonus etc, with a view to compensate itself for the losses suffered by it on account of unlawful activities of the workman. In cross-examination also this witness admitted that workman was not paid his due because of his dispute with company regarding the hut. He further admitted the wages as shown in the wage register were Rs. 115/- per day. He denied the

authenticity of leave register shown to him stating that he could not vouch about its correctness in that comparing with the original.

6. It appears to this Tribunal that documents W-I, dated 29-11-2000 is the notice of retirement. The workman was paid Rs.2,290/- on 29-11-2000 by cheque. In this letter the last line says that the workman shall receive his legal dues if any payable to him shall be paid after ascertaining the same. Therefore there is the adminission of the witness that legal dues existed on 29-11-2000 after retirement. It is clear that they were not paid to him.

7. The next question is that the workman was claiming in his statement of claim that he was not paid Rs.1,50,000/ as his legal due. The workman had stated in his affidavit that amount to be Rs.1,50,000/-. The workman was not cross-examined on this point. Therefore the plea and the affidavit of on behalf of the company that workman was required to give breakup is not acceptable. Even otherwise, the exact amount must have been known to the company because under the law it was the duty of the company to maintain the accounts. The last evidence could be led by the company by showing that nothing was due to the workman or if anything was due it was paid. However, the company says that it did not pay the dues this Tribunal relies on the affidavit of Shri Thakkar. It has been stated by him that company lost Rs. 1.60 lakhs because the workman conduct of a leading the campaign of 'Rasta Rooko'. It was also alleged that company was suffering a loss of Rs. 2 lakh per annum. The contention of the above statement in the affidavit, it was stated—

> "In any case the comapny is entitled to adjust the full gratuity and other alleged legal dues such as bonus etc. of the workman to partialy compensate the losses it has suffered on account of unlawful activities of the workman."

The partial adjustment was Rs. 1.60 lakhs and Rs. 2 lakhs per annum, The amount claimed by the workman towards the dues are Rs. 1,50,000. The company did not produce any evidence specifically showing that the workman was entitled to claim less Rs. 1,50,000/-.

8. It has been argued on behalf of the company that it was entitled to adjust Rs. 1,50,000 because the workman had not vacated the house. It appears that the workman had filed S.C. Suit No. 150 of 1998 Shamsher Ghoush Khan V/s. Navin Somaiya. In that cause order sheet dated 31-7-2000 showed that Suit disposed of when the differents made a statement that he did not intend to disposes the plaintiff (the workman). He had not purchased the Suit property. Nor did he intend purchase it or dispose the workman. This suit property (i.e. the hut) did not belong Navin Somaiya. Nor did he purchase it or had any intention to do so. Therefore the workman had every right to remain the hut. No loses could be caused by him to the workman. Thus the question of loss did not arise. It was a lame plea to deprive the workman of his dues.

9. The consequents of this discussion is that workman was not paid Rs. 1,50,000/- towards his legal dues including bonus, gratuity and leave salary. The workman had retired during the pendency of reference and the claim of the workman on his retirement were incidental to his earlier claim. This was not disputed by the company at any time.

10. However, learned counsel for the company argued that this Tribunal is not entitled to consider the claim in respect of gratuity. The claim to gratuity is governed by the provisions of that Act. In this connection the attention of this Tribunal was drawn to the decision of Supreme Court to case of State of Punjab V/s. Labour Court Jallandar 1980 Lab. I.C. 1984. In that case the claim for payment of gratuity was made before the Industrial Court under Section 33-C(2) of the Act. The lordships of the Supreme Court were of the view that the Payment of Gratuity Act is a complete code in itself. There lordships were not dealing with the jurisdiction of this Tribunal under Section 10 of the Act. The Industrial Tribunal has ample power to deal with it under item 5 of Third Schedule as per Section 7A of the Act. The decisions of Supreme Court deals with the powers of Labour Court under Section 33-C(2) of the Act. The Labour Court does not have even substantive power under Section 7 of the Act in view of its jurisdiction mentioned in Second Schedule. The item No. 6 clarifies the position that Labour Court cannot deal with question of payment of gratuity. The decision is in applicable. It is well established that Tribunal can take note of subsequent events and would the relief appropriate to situation at the time of award. It appears to this Tribunal that the workman was not paid his legal dues leave salary, bonus at the time or the order of reference on 24-5-2000. He further withheld the claim of gratuity on 29-11-2000. The claim was withheld on untenable grand.

11. The consequence is that this Tribunal grants Rs.1,50,000/- towards the legal dues with interest at rate of 8% on that amount from 29-11-2000 till realization. Accordingly this reference is answered.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 23 फरवरी, 2004

का. आ. 679.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सार्दन रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या आईडी. नं. 80/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-02-2004 को प्राप्त हुआ था।

[सं. एल. 41012/54/2002-आई. आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 23rd February, 2004

S. O. 679.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (I.D. No. 80/2002) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Southern Railway and their workmen, which was received by the Central Government on 20-02-2004.

[No. L-41012/54/2002-IR (B. 1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesdsay, the 20th January, 2004

PRESENT:

K. Jayaraman, Presiding Officer

Industrial Dispute No. 80/2002

In the matter of the dispute for adjudicatin under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Southern Railway and their workmen.

BETWEEN:

Sri P. Rajendran : I Party/Workman

AND

1. The Divisional Safety Officer, Divisional Office, Transportation Branch, Madurai. : II Party/ Management
2. The Divisional Railway Manager, Divisional Office, Personnel Branch, Southern Railway, Madurai.
3. The General Manager, Southern Railway, Chennai.

APPEARANCE:

For the Workman : Shri S. Ravi & D. Annibesant, Advocates

For the Management : Mr. N.R. Rajagopalan & S.V. Vasantha Kumar, Advocates

AWARD

The Central Government, Ministry of Laobur vide notification Order No. L-41012/54/2002IR(B-I) dated 12-08-2002 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Southern Railway imposing the penalty of removal from the service to Sri P. Rajendran is legal and justified. If not, to what relief the workmen is entitled ?"

2. After the receipt of the reference, it was taken on file as I.D. No. 80/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner was working as sub sweeper cum-porter in Southern Railway Madurai Division. He discharged his duties sincerely, dilingently. While so, on 1-7-94 a charge memo was issued to him for the absence from 1986 to 1994 and without giving him an opportunity to submit his explanation, domestic enquiry was ordered against the Petitioner. The Petitioner is a semi-illiterate and he was not aware of the procedures of the domestic enquiry. The domestic enquiry held by the Respondent was not proper and it was conducted against the principles of natural justice. The Enquiry Officer has given a finding that the charges framed against him were proved and the Disciplinary Authority issued an order dated 17-5-96 terminating the services of the Petitioner w.e.f. 31-5-96. Against that order, the Petitioner preferred an appeal and the 2nd Respondent on 13-8-96 had confirmed the punishment of dismissal and dismissed the appeal. Against the said order, the Petitioner preferred a revision and it was rejected by the 3rd Respondent on 3-4-97. Hence, he has raised a dispute before the Regional Labour Commissioner (Central) and on its failure, the matter was referred to this Tribunal. Since the enquiry conducted by the Respondent is not according to rules and procedure, the same is vitiated and the Enquiry Officer has also not noted the salient points raised by the Petitioner. The entire enquiry was conducted against the principles of natural justice and therefore, the findings of the Enquiry Officer are perverse. The Petitioner was not given a reasonable opportunity in the enquiry. Therefore, the termination is illegal, unjustified and contrary to the principles of natural justice and the Petitioner prays to pass an award in his favour to reinstate him in service with back wages, continuity of service and other attendant benefits.

4. As against this, the 2nd Respondent filed a Counter Statement and in that it is alleged that the Petitioner has come to this Tribunal with unclean hands suppressing the material facts and events and hence, the claim is to be dismissed. The Petitioner was removed from service for his unauthorised absence. The Petitioner absented from duty for a period of 849 days between 27-4-86 and 4-4-94. It will reflect that the Petitioner was negligent, not sincere and not at all interested in performing his duties. The enquiry conducted against the Petitioner was in just and proper manner and he was given full opportunity to defend himself and only after going through all relevant records, the Enquiry Officer has given a finding that the charges framed against the Petitioner have been proved and the Disciplinary Authority has gone through the entire matter afresh and decided to give proposed punishment and after hearing the Petitioner, he has imposed the Punishment of termination on the Petitioner and therefore, it cannot be said that the order passed by the Disciplinary Authority is illegal. Similarly, the Petitioner's appeal before the authorities and also Revision have been rightly rejected by the Respondent authorities after going through all the formalities. The Petitioner was removed from service in the year 1996 and the Petitioner has raised the dispute only in 2002. Hence, it is submitted that he has gainfully employed in some other place and this petition is heavily barred by limitation. Hence, the Respondent prays that the claim may be dismissed with costs.

5. In such circumstances, the points for my determination are—

(i) "Whether the action of the management of Southern Railway in imposing the penalty of removal from service on Sri P. Rajendran is legal and justified.?"

(ii) "To what relief the Petitioner is entitled?"

Point No. 1:—

6. At the time enquiry, neither the Respondents nor their counsel on record appeared before this Tribunal and the case was adjourned for several hearings for the appearance of Respondents. When the matter was taken up finally on 5-1-2004, on that date also neither the Respondent nor their counsel on record appeared before this Court. Therefore, the Respondent is set ex-parte and the proof of affidavit of the Petitioner is called for.

7. The Petitioner in his proof of affidavit has alleged that from 1975 he was working as Sub-sweeper-cum-porter in the Southern Railway, Madurai Division and he has discharged his duties sincerely and diligently. While, so he was issued with a charge memo dated 1-7-94 on the allegation that he has absented for duty for several days from the year 1986 to 1994 and without giving an opportunity to submit his explanation, the Respondent has ordered for domestic enquiry against the Petitioner. Even though the Petitioner is a semi-illiterate without giving an opportunity to have an assistance of co-employee, the Enquiry Officer proceeded with the domestic enquiry and he has given a finding that the charge framed against the Petitioner has been proved. The domestic enquiry conducted against the Petitioner is not in accordance with rules and also procedures laid down under law. Even the Enquiry Officer's report has not been furnished to the Petitioner and it is against the natural justice and the whole domestic enquiry is illegal and not in accordance with the procedures. Based on the improper domestic enquiry the Disciplinary Authority has passed the order on 17-5-96 terminating the services of the Petitioner w.e.f. 31-5-96. Against that order, the Petitioner preferred an appeal and it was also dismissed on 13-8-96 and again the Petitioner refer a revision and it was also dismissed on 3-4-97. The findings of the Enquiry Officer are not based on documentary evidence or any substantial evidence. Even the period of his leave has been treated as unauthorised absence. The Petitioner's medical leave has also been stated as unauthorised absence and the entire domestic enquiry was conducted against the principles of natural justice and therefore, the findings of the Enquiry Officer are perverse. The enquiry was not conducted fairly and properly and further the Respondent have failed to consider his past records before terminating the Petitioner from service. Hence, he prays that an award may be passed in his favour reinstating him in service with all back wages and other attendant benefits.

8. As against this, even though the Respondent filed Counter Statement, they have not before this court to repudiate the claim of the Petitioner. No document has been produced by the Respondent to show the continuous absence of the Petitioner and therefore, I find the enquiry conducted by the Responded/Management against the Petitioner is not in accordance with the procedures and it is against the principles of natural justice and as such I find this point in favour of the Petitioner.

Point No. 2:—

The next point to be decided in this case is to what relief the Petitioner is entitled?

9. In view of my finding that the enquiry conducted by the II Party/Management Southern Railway against the Petitioner is not just and proper, I find the Petitioner Sri P. Rajendran is entitled to the relief, as prayed for, I, therefore, direct the II Party/Management to reinstate the Petitioner into service forthwith. No Costs.

10. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 20th January, 2004.)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 23 फरवरी, 2004

का. आ. 680.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दी लक्ष्मी विलास बैंक लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या आई. डी. नं. 736/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-02-2004 को प्राप्त हुआ था।

[सं. एल. 12011/46/2001-आई. आर. (बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 23rd February, 2004

S. O. 680.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 736/2001) of the Central Government Industrial Tribunal the Labour Court Chennai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of The Lakshmi Vilas Bank Ltd. and their workmen, which was received by the Central Government on 20-02-2004.

[No. L-12011/46/2001-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 16th January, 2004

PRESENT: K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 736/2001

In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of

Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Lakshmi Vilas Bank Ltd., Karur and their workmen)

BETWEEN

The General Secretary, The Lakshmi Vilas Bank Employee's Union, Chennai.	: I Party/Claimant

AND

The Chairman-cum-Chief Executive Officer The Lakshmi Vilas Bank Ltd. Karur.	: II Party/ Management

Appearance:

For the Petitioner	Mr. R.P.K. Murugesan, Advocate
For the Management	: M/s. T.S. Gopalan & Co. Advocates

AWARD

The Central Government, Ministry of Laobur vide notification Order No. L-12011/46/2001-IR(B-I) dated 03-09-2001 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Lakshmi Vilas Bank Ltd. in not allowing Shri S. Mamundi, Retired Appraiser and Smt. Sumathi Venkatraman, Clerk to opt for pension scheme is justified? if not, what relief they are entitled?"

2. After the receipt of the reference, it was taken on file as I.D.No.736/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:—

The Petitioner Union has espoused the cause of the concerned workman Sri S.Mamundi appraiser at the Moolangudi branch (since retired) complaining that the bank has unjustly excluded him from the benefits of pension and also Smt. G. Sumathi, Clerk, Kodambakkam branch for inclusion into the pension fund. Consequent upon a settlement dated 29-10-93 by the Indian Banks Association, apex body of bankers on behalf of managements of 58 banks including Respondent/Bank with the apex level bank unions including NCBE of which the Petitioner union is an affiliate, a pension scheme namely bank employees (pension) regulations was introduced in all these banks. The scheme which came into force from 1-11-93 covered not only the existing employees but also retrospectively covered those who were in service on 1-1-86 and subsequently retired. On 1-7-94, the management of Respondent/Bank through their circular No.Per/main/12/94-95 advised their staff members about the introduction of pension scheme namely Lakshmi Vilas Bank Ltd. Employees' (Pension) Regulations, 1993 as approved by the Board of Directors at their meeting held on 21-6-94 furnishing therein the salient features of the scheme and calling upon all the members of their staff who were in service and those who were eligible to be covered by the above settlement dated 29-10-93 to exercise their option either to continue in existing contributory provident fund scheme or to switch over to new pension scheme. Further, vide a subsequent circular No.Per/Main/Cir.No. 17/94-95 dated 5-8-94 the bank added that the employees who wish to join pension scheme should exercise their option only on printed Forms supplied by the bank and that typed Forms and Xerox copies should not be used. As instructed by the management, all employees who were willing to switch over to pension scheme exercised their option. Sri S. Mamundi, appraiser of Moolangudi branch and Smt. Sumathi, Clerk of Kodambakkam branch have also exercised their option in favour of pension scheme by signing and submitting the option letters on 31-8-94 and 30-11-94 respectively as instructed by the bank. The bank also verified and acknowledged the option Forms submitted by both of them on 6-9-94 and 17-12-94 respectively. By virtue of the said option letters irrevocably authorising the bank, the trustees of contributory provident fund to transfer the entire contribution of the bank standing to their credit along with interest accrued thereon to the credit of pension fund to be created for the purpose. Sri Mamundi and Smt. Sumathi became members of the proposed pension fund. They have neither revoked their options which they have exercised in favour of pension at any time nor have they withdrawn their irrevocable authorisation in favour of bank/trustees. While so, the Respondent/Bank for technical reason substituted the Lakshmi Vilas Bank Ltd. Employees (Pension) Regulations, 1993 with Lakshmi Vilas Bank Ltd. Employees (Pension) Regulations 1995 and issued a circular No. Per/Main/Cir No.28/95-96 dated 9-12-95 giving the employees who have not opted earlier, a second chance for exercising the option by submitting Form I (Part A & B) before 27-3-96. However, the bank has added in their circular that in respect of those who have already exercised their option have to submit another letter of authority on Form 2 before 27-1-96. In regard to Sri Mamundi, the authorisation by Sri Mamundi according to the bank's own circular is irrevocable. Therefore, Mr. Mamundi has no reason to believe that his name could be subsequently excluded for want of a separate authorisation on Form 2 . Further, the bank has not brought to his notice that if he does not submit Form 2 his name would be excluded from the optees list. The absence of a proper procedure and follow up on the part of bank's administrative office coupled with negligence on the part of Branch Manager in not informing Sri Mamundi of second circular of the bank that required submission of yet another authorisation on Form 2 has only resulted in arbitrary and unjustified exclusion of Sri

Mamundi from the membership of pension scheme. Further, the Respondent/Bank when substituted the first Regulation 1993 with second Regulation, 1995, it ought to have prepared a list of those who have already opted for pension scheme in terms of first circular and taken steps to get yet another authorisation, if so warranted. Since, Sri Mamundi has submitted the option letter irrevocable authorising the bank/trustees to transfer the employer's contribution towards provident fund account to the proposed pension fund and he having not revoked his option for pension scheme thereafter, his exclusion from pension scheme on a technical reason is highly irregular and unjustified. With regard to Smt. Sumathi she has submitted a fresh authorisation in response to bank's second circular which was sent to administrative office on 29-1-96 by the branch and therefore, her claim should not be rejected on the ground that the Head Office not received Form 2 submitted by her. Since the aim of the bank should not be excluded as many employees as possible from this welfare scheme, keeping in mind their consequential financial burden, the bank has rejected the claim of Sri Mamundi and Smt. Sumathi. Further, the 2nd circular is only an improved or revised version of Regulation 1993 and not a new regulation intended to reverse process of Regulation, 1993. Even in the second Regulation, it is mentioned that those employees who have already exercised their option under Regulation 1993 need not submit fresh option on Form F (Part A & B) in terms of circular dated 9-12-95. It is to be looked into that 1993 Regulation was approved by the Board of Directors calling upon the employees to opt for pension was not a temporary/provisional scheme which was liable to be scrapped at a later date. Therefore, the Respondent/Bank is estopped from unilaterally assuming such power and excluding the earlier pension optees namely Mr. Mamundi and Smt. Sumathi from the pension benefits under the pretext of technicalities. Once the Respondent/Bank is accepted the irrevocable option given by the employees, it became part of the service conditions of the employees and therefore, the move on the part of the Respondent/Bank to change the service condition unilaterally by-passing the provisions of 9A of Industrial Disputes Act, 1947 is illegal and unjustified Hence, the Petitioner Union prays that an award may be passed in their favour.

As against this, the Respondent in their Counter Statement contended that it is no doubt true on 29-10-93 a settlement was arrived under section 18(1) of Industrial Disputes Act, between the management and the union. The settlement envisaged framing of pension scheme by 1-11-93 and the employees being given right to exercise option for pension in lieu of employer's contribution to P.F before 30-6-94 The employees were given option to become members of the pension scheme within the time prescribed in the circular. As such, the Respondent bank received 299 applications exercising the option to become members of the pension scheme. But, subsequently, both the parties felt that pension regulations 1993 required changes. Accordingly, negotiations were held at All India level and the final pension scheme regulation was approved by the Board of Directors of the Respondent in meeting held on 29-11-95. Since the pension regulation, 1995 had made certain changes to the Pension Regulation, 1993, it became necessary to seek a fresh option to accept the amended Pension Regulations, 1995 Hence, the Respondent/Bank issued a circular on 9-12-95 that such of those employees who have already exercised option to become members of pension scheme should subscribe to Pension Regulations, 1995 by signing Form 2. Therefore, without Form 2 the original option would have no meaning and they were required to submit Form 2 within 60 days from the notified date i.e. 29-11-95. Out of 299 applicants, who had opted for pension in terms of original circular dated 1-7-94, 62 employees did not submit Form 2 including Sri S. Mamundi and Smt. Sumathi Venkataraman. The Respondent/Bank published a list of pensioners dated 1-4-99 Even though, the Respondent/Bank has accepted and acknowledged in respect of option given by Siri Mamundi, since Siri Mamundi has not given Form 2 subsequent to 1995 Regulations, his name has not been included in the pension scheme, With regard to Smt. Sumathi even though she has given option with regard to first circular, she has not given Form 2 as per the second circular and as per the pension scheme of 1995 and therefore, her name also was not included in the pensioners list as per the scheme. Therefore, no relief can be granted either to Mr. Mamundi or to Smt. Sumathi Venkataraman. Mere option to pension scheme pursuant to circular dated 1-7-94 did not give a right to pension as the parties were ultimately governed by 1995 Regulations. No obligation was caused on the management to send individual intimation informing the employees who want to opt for pension scheme to submit Form 2. To the knowledge of the II Party/Management Smt. Sumathi had not submitted Form 2, the despatch register of the Kodambakkam branch is missing and therefore, the contention of Smt. Sumathi Venkataraman that she has sent Form 2 through his branch is not an acceptable one. In the year 1993 only draft regulation was framed and it was not treated as a final one and the pension regulations were finalised and brought into effect from 29-11-95. By issuing a notification the bank has clearly stated that such of those employees who opted earlier were required to give Form 2 because without the acceptable of Form 2 the earlier letter of option had no significance. When the circular dated 9-12-95 was issued, the last date for submission of option in Form 1 was 27-3-96 and Form 2 was 27-1-96. In other words, those who had not earlier opted for pension should do so before 27-3-96 and those who had exercised their option earlier could submit Form 2 before 27-1-96. The Union has also advised its members to submit Form 2 within the stipulated time and therefore, it cannot be said that the members did not have knowledge of it or had no opportunity of knowing it. In these circumstances, the

Respondent prays that the claim may be dismissed with costs.

5. The points for my consideration are :—

(i) "Whether the action of the Respondent/ Management in not allowing Sri S. Mamundi and Smt. Sumathi Venkataraman to opt for pension scheme is justified?"

(ii) "To what relief they are entitled?"

Point No. 1 :—

6. It is an admitted case of both sides that on 29-10-93 a settlement was arrived at under Section 18(1) of the Industrial Disputes Act between the Indian Bank Association and various All India Unions representing the workmen of banking industry and also 58 banks represented by Indian Banks Association and the copy of which is marked as Ex. M5 and this settlement covers the workmen under the Respondent/Bank. The settlement envisaged framing of pension scheme by 1-11-93 and the employees being given right to exercise option for pension in lieu of employer's contribution to P.F. before 30-6-94. Pursuant to that the Lakshmi Vilas Bank Ltd. Employees' (Pension) Regulation, 1993, copy of which is marked as Ex.W4, came into existence after having been duly approved by the Board of Directors on 21-6-94. Consequently, the Respondent/Bank issued a circular dated 1-7-94, copy of which is marked as Ex.M1 furnishing salient features of the bank and calling for option and irrevocable letter of authority from the employees within a specified period in the prescribed format namely Ex. W2 and W4 and in response thereto Sri S. Mamundi who was working as an appraiser at Moolangudi branch and Smt. G. Sumathi Venkataraman, Clerk of Kodambakkam branch have exercised their option and given irrevocable letter of authority and consequently their names stood included in the list of optees. The copy of which is marked as Ex. M18 under serial Nos. 184 and 263 respectively. While so, on 9-12-95 the Respondent/Bank issued a circular, a copy of which is marked as Ex.M11 stating that Pension Regulation 1995 had been approved by the Board of Directors. The circular besides furnishing another opportunity to those who have not opted for pension scheme to opt fresh by submitting Form No. 1 required that those who already opted to submit Form No.2 and stated failing which they would be deemed to have not opted for pension scheme. It is also admitted in this case that Mr. Mamundi did not submit for Form 2 as per the second circular. But, Smt. Sumathi Venkataraman submitted Form 2 in response to Ex.M11. But the Head Office had not received the same and therefore, when the two persons have represented that their names were not included in the pension optees list, the Respondent/Bank rejected their request on the ground that they have not submitted Form No.2 as mentioned above.

7. In this case, on behalf of the Petitioner it is contended that Sri S. Mamundi did not submit Form 2 as he was not aware of the said circular or its contents. With regard to Smt. Sumathi Venkataraman she has submitted Form 2, but due to the fault of the branch office or due to the fault of the Head Office, the said Form 2 submitted by Smt. Sumathi had not placed and therefore, her name has not been included in the list of pension optees. It is the contention of the Petitioner side that even with regard to notified date of second circular there is confusion. In terms of Chapter I Para 2(r) of Pension Regulation, 1995 i.e. Ex.M10 it is mentioned that 'notified date' means the date on which the Regulations are published. In this case MW1 namely the officer of the Respondent/Bank clearly stated that the date of publication of the Regulation was only on 6-1-96 and we have not published 1995 Regulations in Newspaper. While so, the Respondent/Bank arbitrarily fixed the notified date for Mr. S. Mamundi as 9-12-95 which is marked as Ex.W8 and in respect of Smt. G. Sumathi Venkataraman as 29-11-95, which is marked as Ex.W12. Therefore, even according to the Respondent side what is the notified date of the Pension Regulation, 1995 is not clearly stated by the Respondent. Further, with regard to the cut off date for submission of Form 2 as per Ex.W11 Form 2 had to be submitted within 60 days from the notified date. But the Respondent/Bank had given instructions through Ex.M11 that the last date for submission of Form as 27-1-96 instead of 6-3-96. Thus, by arbitrarily advancing that last date for submission of Form 2 the Respondent/Bank has deprived the earlier optees including Mr. Mamundi, the opportunity of submitting Form No. 2.

8. As against this, on the side of the Respondent, it is contended, that when the circular dated 9-12-95 was issued, the last date for submission of option of Form No.1 was 27-3-96 and Form 2 was 27-1-96. In other words, those who have not earler opted for pension should do so before 27-3-96 and those who had exercised their option earlier could submit their Form No. 2 before 27-1-96 and and it is contended on behalf of the Respondent that without Form 2 mentioned as per circular dated 9-12-95, there is no use in claiming that they have given option even for the circular No.1. Further, it cannot be contended that they no knowledge of it or no opportunity of knowing it because, even the Petitioner Union have informed the same to all its members and aslo requested its members to exercise their option in Form No.2. In such circumstances, it cannot be said that Mr. Mamundi has no knowledge about this circular and that he has no opportunity of knowing the same.

9. But on perusal of the documents produced on either side, I am of the opinion that the cut off date mentioned for submission of Form No. 2 is not clear, because the notified date of Pension Regulation, 1995 under Ex M10 is not correctly mentioned.

10. On behalf of the Respondent, it was argued that the Respondent/Bank has received 299 applications as per the Lakshmi Vilas Bank Employees' (Penion) Regulations, 1993, but subsequently both the parties, namely the Management and its workmen, felt that Pension Regulations, 1993 required changes and in accordance with the meeting held at All India level, several changes were made to Pension Regulations, 1993. Some of which were also adverse to the workmen and final pension scheme was approved by the Board of Directors in the meeting held on 29-11-95. Since the Pension Regulations, 1995 had made certain changes for Pension Regulations, 1993, it has become necessary for the bank to seek necessary option for substituting the Pension Regulations, 1995. Therefore, on 9-12-95 the Respondent/Bank issued a circular directing such of those employees who have already exercised the option to become members of the Pension Scheme should subscribe to Pension Regulations, 1995. It is further argued that MW1 has clearly mentioned that the changes which are adverse to the interests of the workmen and under such circumstances, it cannot be contended that the irrevocable option given at the time of 1993 Regulation is valid for Pension Regulations, 1995. Without Form 2, the original option which was given under 1993 Regulation Scheme would have no meaning and out of 299 applicants who have opted for pension in terms of circular dated 1-7-94, 62 employees did not submit Form 2 including Mr. S. Mamundi and Smt. Sumathi Venkataraman.

11. But, again it is argued on behalf of the Petitioner that Chapter II of Pension Regulation, 1995, which is marked as Ex.-M10, under clause 'Application and Eligibility' para 3(9) categorically states that '*notwithstanding what is stated in sub regulations 1, 2, 3, 5 and 8, the option exercised before the notified date shall be deemed to be an option exercised for the purpose of this chapter, provided the employee has authorised trustees to transfer the entire contribution of bank to provident fund to the credit of funds being constituted for this purpose.*' Further, the Indian Bank Association in their clarificatory circular dated 15-12-95 which is marked as Ex.W20 in para A(i) has clarified that 'those who have already exercised their option for pension and wish to continue to be members of the pension scheme, need not exercise fresh option.' Therefore, it is clear that Regulation 1995 does not contemplate submission of Form 2 or any other form by earlier optees, since the option exercised by Sri Mamundi and Smt. Sumathi Venkataraman on 31-8-94 and 31-11-94 are valid options for 1995 Regulations also. The learned counsel for the Petitioner placed much reliance in the ruling 2001 III LLJ 1367 ANSARI Vs. BANK OF BARODA and argued that the Hon'ble Division Bench of Madras High Court has held that "*the option once exercised is final and binding on retiree/optee and there is no doubt about it and clause (9) of Regulation 2 provides that option exercised before the notified date by an employee or family of the deceased employee in pursuance of settlement shall be deemed to be an option for the purpose of the pension Regulations 1995.*" In the present case the appellant has submitted his option immediately after coming into force 1993 pension scheme, which has been amended by 1995 Pension Regulations by providing certain additional facilities. It is not in dispute that in respect of 1993 Pension Scheme, the appellant had submitted his option and the Respondent has also admitted the same, that being the factual position, there is no reason at all to deny the benefit of the scheme, as the appellant had opted for 1993 pension scheme benefit and such option will ensure and enable the appellant to avail the benefits of Pension Regulations, 1995 as well. In such circumstances, it cannot be contended that the option given by Mr. Mamundi and Smt. Sumathi Venkataraman will have no effect without form 2 and therefore, the Petitioner's contention must be upheld.

12. As against this, the learned counsel for the Respondent argued that though there is no doubt in Ansari's case the Division Bench of the High Court held like that, against this judgement the Bank of Baroda had preferred an appeal by Special Leave before Supreme Court and in the Supreme Court the matter was compromised and therefore, the Petitioner cannot rely on the judgement for this purpose and he has produced the order copy of the Supreme Court in ANSARI Vs. BANK OF BARODA.

13. Again, the learned counsel for the Petitioner argued that Sri Mamundi and Smt. Sumathi Venkataraman who are workmen of the Respondent/Bank and for whom the Industrial Disputes Act, 1947 is applicable and in terms of para 2 of the Settlement under Ex.M5, the said employees on 31-10-93 exercised their option to become members of the pension scheme and ceased to be the members of contributory provident fund w.e.f. 1-11-93 and irrevocably authorised the bank or trustees to transfer the entire contributory provident fund along with interest accrued thereon to the pension fund to be created for this purpose are covered under the pension scheme and the said settlement does not provide any standard format for option and therefore, a mere expression of intent coupled with letter of authority could be sufficient on the part of the employees to become members of the pension scheme. Thus, Sri Mamundi and Sumathi Venkataraman have already expressed themselves in favour of pension and therefore, it cannot be questioned by the Respondent/Bank that their options are not valid and only form 2 will be valid. Further, he relied on the ruling reported in 2001 3 LLJ supplement 1367 ANSARI Vs. BANK OF BARODA, wherein it was held that "*it is a fundamental and it is equally well settled that format prescribed by the Respondent cannot control the regulation or rules or the directions. Definitely the format will not control either Chapter I or II or IX of the Regulations and at any rate on that score the benefits to which the appellant is entitled*

to avail cannot be denied nor it could be contended that appellant had forfeited his right or claim to pension scheme, merely because the option letter which has not been attested." Therefore, he argued that on any account, the Respondent/Bank cannot be allowed to contend that the option letter given by Mr. Mamundi has been superseded by second circular and he has to given Form No. 2 as mentioned in the second circular.

14. As against this, the counsel for the Respondent argued that in the year 1993 only a draft regulation was framed and it was not treated as a final one and this was known to every one including the Petitioner and it was only by resolution of Board of Directors in the meeting held on 29-11-95, the pension regulation was finalised and brought into effect on 29-11-95.

15. On considering the entire documentary evidence and also oral evidence given by MW1, I come to a conclusion that it is false to say that 1993 scheme was only a draft Regulation and the pension regulations were finalised only on 29-11-95. Further, on 29-10-93 under Ex. M5 and subsequently under Ex. W4 the Respondent/Bank had issued circular dated 1-7-94 Ex. M1 and asked the employees of the bank who are opting for pension has to give their option and also irrevocable letter of authority within the prescribed date. Under such circumstances, it cannot be said that it is only a draft proposal and not a final one.

16. The learned counsel for the Petitioner further argued that in this case Sri S. Mamundi has not submitted Form No. 2 because the Branch Manager of the Moolangudi branch neither informed him anything about Form No. 2 nor was the circular under Ex. M11 furnished to him or any such circular was put up in the branch notice board. Further Sri Mamundi was working in a very small village branch of the Respondent/Bank and he has studied upto V standard and hence for all purposes of English language he is an illiterate and from the records produced by the bank, it is clear that only two persons of Moolangudi branch namely Mr. Mamundi and Mr. Arulmuguran, sub-staff have opted for pension scheme of 1993 and the Manager and also the other only Clerk has not opted for the scheme. It is clear from the records produced by the management and also from the evidence of MW1 that no translated version of the Regulation was issued to the Branch Manager or the Respondent has issued any instruction to the Branch Manager to explain the same in vernacular language. Under such circumstances, it cannot be stated that employees have known the circular issued by the Respondent/Bank and they have not given Form 2 as mentioned in the circular. It is further argued that the circular on Pension Regulation did not contain any direction to the Branch Manager that this circular should be circulated amongst the staff members and a copy there of may be displayed in the notice board and if any eligible staff member was on leave, they may also be informed in this regard. Therefore, Mr. Mamundi, who is an illiterate with regard to English language did not known that he is required to submit Form 2 and if he is not submitting the same, his name will not be included in the pension scheme and Mr. Mamundi came to know the fact that his name was not included in the pension optees list only at the time of his retirement and therefore, it is the fault of the Respondent/Bank by not issuing a list even prior to his retirement. Therefore, his option given for 1993 Regulation should be taken as valid and he should be given pension in this case. He further relied on the rulings reported in 2003 II LLJ 462 DASU SUBBA LAKSHMI Vs. INDIAN BANK AND OTHERS, wherein the Andhra Pradesh High Court has held that "any circular cannot restrict the scope of operation of statutory rules or regulations. As along as the Respondent did not dispute the factum of the 4th Respondent receiving the application countersigning it, forwarding the same and addressing reminders thereafter their plea that they have not received the option from the Petitioner cannot be accepted. The requirement as to submission of option form etc. is not provided for the pension regulations, the basis for compliance of these requirements is a circular issued by the bank. Even if there existed any lapse as regards compliance with regard to circular that does not have the effect of denying the benefit to the employees under Pension Regulations".

17. As against this, the learned counsel for the Respondent argued even in TEJ RAM Vs. INDIAN OVERSEAS BANK 2002 3 LLJ 850 and D. P. PATIL Vs. UOI AND OTHERS, the Supeme Court has held in the first case in a similar circumstances that *when the entire contributory provident fund stood transferred to bank accounts, and there has been no contribution from the bank since November, 1993.* It would be equitable in the circumstances narrated above to allow the appellant despite the non-compliance of the said Regulations to be brought over in the pension scheme evolved by the bank. In the second case the Supreme Court has held that when the employee has stated that he has no knowledge on extension of last date for exercising the option regarding gratuity, the Supreme Court has held that *"employee thought that it would be a better principle advantageous to him and he withdrew the retiral benefits and later when the pension scheme was sought to be given to several persons, he came forward at a belated stage saying that he was not in know of extension till 1991 and it is hard to believe that he had no notice of exercising the option for pensionary benefits. Under such circumstances, we do not find any illegality in the order passed by the Court for recalling the order".* in this case. the bank has not transferred the contributory provident fund to the Trustees for pension and while 299 employees, except 62 persons, have given Form No. 2 as per the notification, under such circumstances, the contention of the Petitioner that Mr. Mamundi had no knowledge about the notification or notification has not been translated into Tamil and given to Mr. Mamundi cannot

be accepted and it is the duty of the employee to go through the Notification and in fact, when the notification has been given to Mr. Mamundi, he has acknowledged the same by signing the same in the backside of Notification. Under such circumstances, without giving Form No. 2 neither Mr. Mamundi nor Smt. Sumathi Venkataraman can claim the pensionary benefits.

18. But, on considering the entire facts in this case, I am of the opinion that 1993 pension scheme was a social welfare measure and in the said regulation nowhere prescribed the option letter should be either in the prescribed format or required any other procedure. The denial of pension to Mr. Mamundi and Smt. Sumathi Venkataraman on the ground that their option letters not received in Form No. 2 was fatal to their claim cannot be accepted because, their option under earlier 1993 Pension Scheme and the benefit of such option would enable the persons to avail the benefits of 1995 Pension Regulations scheme as well. Further, in this case, it is the contention of Smt. Sumathi Venkataraman that she has given her option and also Form No.2 through his branch office and it is also her contention that the branch office has sent the same to Head Office. Therefore, the Respondent/Bank must inform what had happened to Form No. 2 given by Smt. Sumathi Venkataraman. If actually she has not given Form No. 2 it must inform like that. While it was mentioned in the notice given by Smt. Sumathi Venkataraman that she has given the Form No. 2 through her branch office, they have to search and find out what had happened to the said Form No. 2 and simply because option form has been lost at Head Office Smt. Sumathi Venkataraman cannot be blamed for the same. If the option form was lost, it was the duty of the Respondent/Bank to ask Smt. Sumathi Venkataraman to submit a copy of the option form available with her or to give a fresh option form, on the other hand, the Respondent simply rejected the claim of Smt. Sumathi Venkataraman. Under such circumstances, it cannot be contended that merely because From No. 2 given by Smt. Sumathi Venkataraman was not available with the Head Office, she is not entitled to the pensionary benefits.

19. The learned counsel for the Petitioner placed much reliance on 2003 II LLJ A.P. DASU SUBBA LAKSHMI VS. INDIAN BANK wherein the Andra Pradesh High Court has held that the factum to 4th respondent receiving the application countersigning it, forwarding the same and addressing reminders thereafter their plea they have not received option form from the Petitioner cannot be accepted. Therefore, it is held that the Petitioner was entitled to be extended the benefit of voluntary retirements and also pensionary benefits.

20. From the above discussion, I find the option given by Sri Mamundi and Smt. Sumathi Venkataraman under 1993 Regulations must be taken into consideration and the Respondent/Bank must give the pensionery benefits to both the persons namely Sri S. Mamundi and Smt. Sumathi Venkataraman. Therefore, I find this point in favour of the Petitioner Union.

Point No. 2 :

The next point to be decided in this case is to be what relief the concerned employees are entitled ?

21. In view of my finding that they are entitled to pensionery benefits. I direct the II Party/Management to treat that Sri S. Mamundi and Smt. G. Sumathi Venkataraman have validly exercised their option in terms of Laxmi Vilas Bank Employees' [Pension] Regulations, 1995 and they are entitled to payment of pension in terms of the said Regulations, on the said persons complying with the balance of requirements prescribed in the said Regulations as and when called upon to comply, as required by the Respondent/Bank. As such, the claim is allowed.

22. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 16th January, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

For the I Party/Claimant : WW1 Sri R. Seshadri

For the II Party/Management : MW1 Sri P. Jeevasan

Documents Marked :—

For the I Party/Claimant :—

Ex. No.	Date	Description
W1	06-09-94	Xerox copy of the acknowledgement given by Respondent/Bank to Mr. Mamundi for option.
W 2	19-02-99	Xerox copy of the representation given by Smt. Sumathi.
W 3	01-07-94	Xerox copy of the circular issued by Respondent Bank for Pension scheme
W 4	Nil	Xerox copy of the printed book let issued by Respondent/Bank for 1993 Regulations.
W 5	05-08-94	Xerox copy of the circular issued by Respondent.
W 6	30-09-94	Xerox copy of the circular issued by Respondent.
W 7	02-03-98	Xerox copy of the circular issued by Respondent.
W 8	18-02-98	Xerox copy of the letter from Respondent/Bank To Sri Mamundi.

Ex.No.	Date	Description
W 9	01-06-98	Xerox copy of the letter from Respondent/Bank To Sri Mamundi.
W 10	30-11-98	Xerox copy of the letter from Respondent/Bank To Sri Mamndi.
W 11	17-12-94	Xerox copy of the letter from Respondent/Bank To Smt. Sumathi.
W 12	02-03-99	Xerox copy of the letter from Respondent/Bank To Smt. Sumathi.
W 13	01-04-99	Xerox copy of the circular issued by Respondent Containing the list of pension optees.
W 14	26-04-99	Xerox copy of the letter from petitioner Union to Respondent/Management.
W 15	01-07-99	Xerox copy of the reply given by Respondent/Bank To Petitioner Union
W 16	08-11-2000	Xerox copy of the letter from Petitioner Union to Regional Labour Commissioner (Central).
W 17	02-01-2001	Xerox copy of the reply given by Respondent/Bank To Regional Labour Commissioner (Central).
W 18	15-05-2001	Xerox copy of the rejoinder filed by Petitioner Union.
W 19	28-06-2001	Xerox Copy of the minutes of conciliation proceedings.
W 20	15-12-95	Xerox copy of the circular issued byIndian Bank's Association.
W 21	08-02-2000	Xerox copy of the circular issued by Respondent.
W 22	06-07-2001	Xerox copy of the circular issued by Respondent.
W 23	06-08-2001	Xerox copy of the circular issued by Respondent.
W 24	01-11-2002	Xerox copy of the circular issued by Respondent.
W 25	25-7-85/ 1-8-85	Xerox copy of the letter from Respondent to Petitioner Union regarding seniority list.

For the II Party/Management :—

Ex.No.	Date	Description
M 1	01-07-94	Xerox copy of circular issued by Respondent.
M 2	18-02-98	Xerox copy of letter from Respondent to Mr. S. Mamundi.
M 3	02-03-99	Xerox copy of letter from Respondent to Smt. Sumathi.
M 4	01-04-99	Xerox copy of the circular containing list of optees under pension scheme, 1995.
M 5	29-10-93	Xerox copy of settlement between IBA and NCBE.
M 6	31-08-94	Xerox copy of declaration form given by Mr. Mamundi under 1993 pension scheme.
M 7	06-09-94	Xerox copy of acknowledgement letter given by Respondent to Mr. Mamundi
M 8	30-11-94	Xerox copy of declaration given by Smt. Sumathi under pension scheme.
M 9	07-10-95	Xerox copy of circular issued by IBA
M 10	29-11-95	Printed booklet containing pension Regulations, 1995 of Respondent Bank.
M 11	09-12-95	Xerox copy of circular issued by Respondent for pension regulations, 1995.
M 12	04-01-96	Xerox copy of the circular issued by Union.
M 13	17-08-96	Xerox copy of the circular issued by Respondent for pension scheme.
M 14	14-02-98	Xerox copy of letter from Mr. Mamundi to respondent.
M 15	19-02-99	Xerox copy of letter from Smt. Sumathi to respondent.
M 16	29-09-95	Xerox copy of notification regarding Pension Regulations, 1995.
M 17	Nil	Xerox copy of Form 2 issued by respondent bank.
M 18	1995-96	Xerox copy of statement showing the list of employees who opted for Pension Scheme, 1993.
M 19	29-11-95	Xerox copy of memo sent by Respondent Bank to Board regarding Pension Regulations, 1995.
M 20	06-01-96	Xerox copy of internal communication regarding delivery of Pension Regulations, 1995.
M 21	19-02-97	Xerox copy of application submitted by Sri Mamundi to Trustees.
M 22	10-03-97	Xerox copy of letter from respondent bank to personnel department, EPF section.
M 23	Nil	Xerox copy of statement in respect of Sri Panner Selvam for LVBEU's pension provident fund.

नई दिल्ली, 23 फरवरी, 2004

का. आ. 681.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या आई० डी० नं० 55/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-2-2004 को प्राप्त हुआ था।

[सं. एल-12012/60/2002-आई.आर. (बी-I)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd February, 2004

S. O. 681.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 55/2002) of the Central Government Industrial Tribunal/ Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 20-02-2004.

[No. L-12012/60/2002-IR(B.II)]

AJAY KUMAR, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 21st January, 2004

PRESENT : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 55/2002

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN :

Sri K. Kannan : I Party/Workman

AND

The Chief General Manager., State Bank of India, Chennai. 1 : II Party/Management

APPEARANCE :

For the Workman : M/s. Aiyar & Dolia, R. Arumugam & N. Krishna Kumar, Advocates

For the Management : M/s. S. Kanniah & P. Kolappa Pillai, Advocates

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-12012/60/2002-IR(B-I) dated 27-6-2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of State Bank of India in terminating the services of the workman Sri K. Kannan is justified? If not what relief he is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 55/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed Claim Statement and Counter Statement respectively.

3 The contention of the Petitioner in the Claim Statement is briefly as follows :—

The Petitioner was appointed as a messenger in the Respondent/Bank on 28-12-1982. The Petitioner has put in more than 16 years of continuous service. While so, when the Petitoner was working as a messenger in Valluvarkottam branch of the Respondent/Bank, he was issued with a charge sheet dated 20-4-1992 alleging that on 7-8-91 he received an amount of Rs. 2628/-being proceeds of branch S.C. No. 2303 to 2307 from T. Nagar Head Post Office, but had remitted Rs. 1957.50 on 21-8-91 and again he made good the balance of Rs. 670.50 on 22-10-91, when the matter came to light. Even the Petitioner's explanation has not been accepted by the Respondent and an enquiry was ordered to be conducted. But the enquiry was conducted without giving the Petitioner full and reasonable opportunity. The Enquiry Officer instead of acting in an unbiased manner has submitted his finding holding that the Petitioner has committed the charges in a perverse manner and on 13-7-99, the Respondent proposed the punishment of dismissal without notice. Even the explanation given for this was not accepted and by an order dated 20-9-99 the Respondent confirmed the order of dismissal. Even the Appellate Authority by an order dated 14-1-2000 dismissed the appeal preferred by the Petitioner. The Petitioner was only a messenger at the branch and the service condition of the Petitioner could only be maintainable as long as he is given to perform the work of his cadre neither in the higher capacity nor at lower capacity of the Petitoner. The charges framed against the Petitioner as the nature of reported charges are of the off shoot of the work not pertaining to Petitioner. The charges framed against the Petitioner are vague and bereft of details. The Enquiry Officer conducted the enquiry without following the principles of natural justice. The findings of the Enquiry Officer are perverse and one sided. The Enquiry Officer failed to consider that there is confusion in conversion rate of pound sterling and US dollars. There is no delay on the part of the Petitioner or misappropriation as alleged.

The letter received from the postal department was marked without furnishing a copy of the same to the Petitioner. The order of dismissal passed against the Petitioner is too harsh and this Court has got ample powers under section 11A of the Industrial Disputes Act, 1947 to interfere with the order of dismissal and to set aside the same. Hence, he prays that an award may be passed in his favour.

4. As against this, the Respondent in the Counter Statement has contended that the Petitioner while working as messenger in the Respondent/Bank branch at Valluvarkottam has committed serious misconducts. Since the charge amounts to gross misconduct as per para 521(4)(j) of Sastry Award, departmental proceedings against the Petitioner was conducted by adhering to the principles of natural justice. The Petitioner participated in the proceedings through his defence representative. After independently analysing the evidence, the Enquiry Officer has giving the finding that the charge framed against the Petitioner has been proved and therefore, the punishment of dismissal from service was imposed on the Petitioner. The Appellate Authority perused and reassessed the evidence and enquiry proceedings and also various points raised by the Petitioner and after applying his mind confirmed the order of dismissal passed by the Disciplinary Authority. The Petitioner misappropriated the customer's money with an intention to defraud Rs. 1957.50 for 14 days and another sum of Rs. 670.50 for 77 days. The Petitioner has received the total amount of Rs. 2628/- being the proceeds of the branch S.C. 2303 to 2307 and the postal authorities have confirmed that they have paid the said amount of Rs. 2628 by cash on 7-8-91 @ Rs. 35.40 per PS to the Petitioner himself. The bank being repository of public trust and cannot carry on their banking business with persons of doubtful integrity and bonafides. Depending upon the fraud committed by the Petitioner, severe action has been taken so as to provide suitable deterrent to other employees of the bank. The misconduct committed by the Petitioner was serious and grave in nature. It is the case of loss of confidence. The enquiry was conducted in a proper, fair and in prescribed manner and the punishment to the Petitioner was appreciated and commensurate to the gravity of the misconduct committed by the Pettioner. In the above circumstances, the Respondent prays that the claim may be dismissed with costs.

5. The points for my determination in these circumstances are—

(i) "Whether the action of the management of State Bank of India in terminating the services of the Petitioner is justified?"

(ii) "to what relief the Petioner is entitled?"

Point No 1 :—

6. In this case the allegation against the Petitioner is that on 7-8-91 he received total amount of Rs. 2628/- being the proceeds of the branch S.C. No 2303 to 2307 (British Postal Order worth P.S. 75) from T. Nagar post office, but had remitted Rs. 1957.50 on 21-8-91 due to the customer. the bank customer when represented the original deposit of Rs. 1957.50 on 21-8-91 is less, the branch officials enquired with the T. Nagar post office about the correct value of the said PS and the postal authorities have confirmed that they have paid a sum of Rs. 2628/- in cash on 7-8-91 itself @ Rs. 35.40 per PS to the Petitioner himself. The Petitioner has given an explanation that he has no knowledge about the British Postal Order and US dollars and he has taken the vouchers as per the direction of his superiors and he has returned the documents and he has not done anything against the procedure and it is only the officials who have given the documents to the post office are liable and he has not taken any amount and he has not misappropriated any sum of the bank. But, no satisfied with the explanation given by the Petitioner, the Respondent/Bank authorities have ordered to enquire the matter and on enquiry, it was found that the Petitioner has temporarily misappropriated the amount and after it came to light he has deposited the entire amount to the bank and therefore, the punishment of dismissal from service was ordered by the Respondent/Bank. The Petitioner contended that with regard to conduct of enquiry that it was not fair and proper and even assuming the work of a messenger, he has not dealt with cash transaction, in this case, the Enquiry Officer even though has accepted the contention the collection of instrument does not come under the purview of the duties of a messenger, he has given a finding that the charge framed against the Petitioner has been proved and it was a perverse finding. Further, the Enquiry Officer has not given an opportunity during the enquiry and the Enquiry Officer instead of acting in an unblemished manner has acted in partial manner and submitted his perverse findings. Therefore, the Petitioner requests this Tribunal to set aside the order of dismissal. It is the further contention of the Petitioner that even at the very beginning of the enquiry, the Petitioner has raised various objections, without considering the same and without following the principles of natural justice, the Enquiry Officer has proceeded with the enquiry and without giving copies of the materials produced by the Respondent/Bank he has come to the conclusion that the charge has been proved and his finding is one sided and biased manner.

7. As against, this, it is contended on behalf of the Respondent that even though the Petitioner has stated that it is not his duty to deal with cash transaction, in the prior occasions he has done this work and therefore, it cannot be said that it is not his work to deal with cash transaction. Further, even though the Petitioner has stated

that he has not misappropriated any amount of the bank, from the document/letter of the post office that the Petitioner has received Rs. 2628/- in cash on 7-8-91 itself at Rs. 35.40 per PS, it cannot be said that he has not taken the money from the T. Nagar Head Post Office. Even though the Petitioner has stated that he has taken only vouchers which has been written by the officials of the bank, it is his duty to bring the amount paid by the T. Nagar post office to the bank, but on the other hand, he has not deposited the amount on 7-8-91 but, on the other hand, he has remitted Rs. 1957.50 on 21-8-91 and balance of Rs. 670.50 on 22-10-1991.i.e. 77 days after he has received the amount. Thus, he has temporarily misappropriated the customer's money and he has done a gross misconduct as mentioned in the Sastry Award. It is the further contention of the Respondent/Bank that only after considering the gravity of the charge proved against the Petitioner and the past record of the Pettiioner, the bank imposed the punishment of dismissal and further Respondent/Bank being a repository of public trust and cannot carry on the banking business with the persons of doubtful integriety and bonafide and in view of the misconduct committed by the Petitititioner severe action has taken and the punishment given to the Petitioner cannot be said as too harsh, on the other hand, it is appropriated and commensurate with the gravity of the misconduct committed by the Petitioner. It is their further contention that there is another chargesheet pending against the Petitioner for misappropriation of Rs. 3000/- from the customer's account namely one M/s. Vijaya Dhurga and since the Petitioner has been awarded punishment of dismissal in this case, the further proceedings in another case was kept in abeyance and therefore it cannot be said that the punishment imposed is too harsh and therefore they pleaded that this claim has to be dismissed.

8. On behalf of the Petitioner it is argued that the Petitioner was only a messenger and it is not his duty to deal with the cash transaction with other banks and financial institutions. In this case, even though the Petitioner has no duty to perform the same, the officials have instructed him to do the work and without knowledge about the transaction, he has done the work as instructed by the officials of the bank and in no case his signature was found place in any of the documents, produced by the Respondent/Bank and in such circumstances, it cannot be said that the Petitioner has received Rs. 2628/-on 7-8-91. Even in the enquiry, it is established that SC No. 2303 to 2307 were sent for collection to T. Nagar branch only on 21-8-91 from Valluvarkottam branch and not on 7-8-91 as claimed by the Respondent/Bank. The SC lodging register and the evidence of the first witness of the management had shown that the instruments were sent only to T. Nagar branch of the Respondent/State Bank of India and it is also clear that the credit instruments have been returned to Valluvarkottam branch from the State Bank of India, T. Nagar branch. It is also clearly established from that the word 'HPO' by ballpoint pen to the carbon print of that SC No. 2303-2307 prepared on 7-8-91 has been sent only to T. Nagar branch and returned unpaid on 21-8-91. But, the Enquiry Officer has not considered this fact but he has relied on the post office endorsement that the amount has been paid and has come to the wrong conclusion.

9. But, as against this, learned counsel for the Respondent argued that the document produced from the post office, it is clear that on 7-8-91 the Petitioner has received Rs. 2628/- in person and it is also clear that he has paid Rs. 1957.50 on 21-8-91 and remaining amount of Rs. 670.50 on 22-10-91, therefore, it is clearly established that the Petitioner has temporarily misappropriated the amount and again deposited the same in the bank only when the matter came to light and therefore, it cannot be said that the Petitioner is an innocent person. Further, the learned counsel for the Respondent placed reliance on the rulings 1999 II LLJ 194 MANAGEMENT OF CATHOLIC SYRIAN BANK LTD. VS. PRESIDING OFFICER, INDUSTRIAL TRIBUNAL AND ANOTHER, wherein the High Court of Madras has held that the "*the workman employed in a bank where the confidence of customer is paramount for the success of business cannot be disputed. The effect of continuation of the employment of such person who had failed to rejoin and inspire the confidence of the employer was also evident. The risk to the bank in employing a person like the second Respondent workman who had patently duped its customer, and harmed the bank's reputation was also evident. The misconduct committed by the workman had been proved after due enquiry in which the workman had fully participated . . . . . The Tribunal as a judicial forum is required to reach its conclusion in such matters on the basis of evidence and also on the basis of available materials which are relevant. It is only when the Tribunal discharges its function in the matter judicially, value can be attached to discretion exercised by it and if the discretion has been properly exercised, this Court woud not interfere with such exercise of discretion. The discretionary power to Tribunal is not however, a free licence to direct reinstatement, even when it is not warranted and to set aside the order of dismissal when the records do not warrant setting aside of the order of dismissal.*" Thus, the High Court has reversed the order of the Tribunal and held that the domestic enquiry held against the workman is proper. Relying on this judgement, the counsel for the Respondent argued that depending upon the gravity of the misconduct committed by the Petitioner, the bank has taken severe action and therefore, it cannot be said that it is too harsh.

10. But, on the other hand, the counsel for the Petitioner contended that even though the Petitioner has no duty to deal with the cash transaction, he has become a victim for the circumstances and further only due to the

mistakes of the officials, these things have happened and in no circumstances, it can be said that the Petitioner has misappropriated the amount because from the records, it is clear that the amount has been paid only on 22-10-91 and therefore, it cannot be said that the charge framed against the Petitioner has been established. Any how, under section 11A of the Industrial Disputes Act, 1947, this Court has every power to mould the relief claimed by the Petitioner and therefore, the counsel for the Petitioner prayes that even if the Court comes to a conclusion that the Petitioner has done the mistake, the Petitioner can be awarded with lesser punishment.

11. I find much force in the contention of the learned counsel for the Petitioner because from the documents produced by the Respondent/Management, it is clear that the Petitioner is only a victim for the circumstances. Further, it is not the duty of a messenger to deal with cash transaction. Therefore, under such circumstances, I find the punishment imposed by the Respondent/Management State Bank of India against the Petitioner/Workman Sri K. Kannan is too harsh. Under such circumstances, I find a lesser punishment is to be awarded to the Petitioner. As such, I find stoppage of three increments with cumulative effect is just and proper in the circumstances of the case and for the mistake committed by the Petitionoer. The point is answered accordingly.

Point No 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

12. In view of my finding that the Petitioner is to be awarded a lesser punishment and also in view of my finding that stoppage of three increments with cumulative effect is just and proper in the circumstances shown against the Petitioner, I find the Petitioner Sri K. Kannan is to be reinstated in servide by the II Party/Management. With regard to back wages, I find the Petitioner was dismissed from service in the year 1999 and therefore, the Petitioner Sri K. Kannan is entitled to only half of the back wages and he is entitled to continuity of service and other attendant benefits. Ordered accordingly. No Costs.

13. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st January, 2004).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

Ex. No.	Date	Description
W1	27-08-01	Xerox copy of the letter from the Petitioner to Assistant Labour Commissioner (Central) raising Industrial dispute.
W2	22-10-01	Xerox copy of the letter from the Petitioner to Assistant Labour Commissioner (Central) raising Industrial dispute.

For the II Party/Management :—

Ex. No.	Date	Description
M1	20-04-92	Xerox copy of the show cause notice
M2	11-01-93 to 06-03-96	Xerox copy of the enquiry proceedings
M3	01-11-92	Xerox copy of the findings of Enquiry Officer
M4	13-07-99	Xerox copy of the letter from Disciplinary Authority To Petitioner
M5	20-09-99	Xerox copy of the order of Disciplinary Authority
M6	01-11-99	Xerox copy of the letter from Petitioner to Appellate Authority
M7	17-12-99	Xerox copy of the letter from Petitioner to Appellate Authority
M8	14-01-2000	Xerox copy of the order of Appellate Authority.

नई दिल्ली, 23 फरवरी, 2004

का. आ. 682.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या आई० डी० नं० 54/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-2-2004 को प्राप्त हुआ था।

[सं. एल-12012/56/2002-आई.आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 23rd February, 2004

S. O. 682.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 54/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 24-02-2004.

[No. L-12012/56/2002-IR(B.I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CHENNAI

Wednesday, the 7th January, 2004

PRESENT : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 54/2002

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) between the Management of State Bank of India Local Head Office, Chennai and their workman)

BETWEEN:

Sri A. Bose : I Party/Workman

AND

The Chief General Manager, State Bank of India, Local Head Office, Chennai. : II. Party/Management

APPEARANCE:

For the Petitioner : M/s. Aiyar & Dolia, R. Arumugam & N. Krishna Kumar, Advocates

For the Management : Mr. K. S. Sundar & B. Mahibala, Advocates.

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-12012/56/2002-IR(B-I) dated 12--6-2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of State Bank of India in the removal of service of Shri A. Bose is justified? If not what relief the workman is entitled to?"

2. After the receipt of the reference, it was taken on file as I.D. No. 54/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3 The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner was appointed as Clerk/ Typist in the Respondent/Bank Muduku lathur Branch on 22-12-1987. He has put in 13 years of continuous service. While so, the Respondent issued a show cause notice dated 1-9-91 alleging that the Petitoner misused the facility as regards consumer loan and certain other acts of preparation of draft in a fraudulent manner and removal of security forms and deviation of the procedures as regards the availment of festival advance. The explanation given by the petitioner was not considered as satisfactory and a domestic enquiry was initiated and the Manager of Sattur branch was appointed as an Enquiry Officer. The Enquiry Officer has given a finding that out of the four charges against the Petitioner three charges have been proved. The Petitioner's explanation offered in respect of the findings was not considered and second show cause notice was issued and even without considering the explanation submitted by the petitioner final order of removal from service was issued on 3-10-2000. Even the appeal preferred before the Appellate Authority was dismissed on 15-11-2000. The petitioner gave an explanation only on the strength of the assurances given by the Disciplinary Authority that after independent investigation, he would take lenient view in the matter. The Petitioner alleged that enquiry was not fair and proper and the Enquiry Officer cross examined the Petitioner putting leading questions much against the principles of natural justice. The Enquiry Officer has not offered an opportunity to the Petitioner to bring his witness. The findings of the Enquiry Officer is perverse and one sided. The Enquiry Officer gave his findings. misinterpreting the petitioner's explanation as having accepted the guilt. The final order and appellate orders are not speaking orders and they have not analysed the various points raised by the Petitioner and no valid reason was given in those orders and the authorities have not applied their mind to the various points raised by the Petitioner. The Disciplinary Authority has failed to consider the past unblemished record of service which is against the provisions of Sastry Award and Bipartite Settlement. The order of dismissal is too harsh and this Tribunal has got ample powers under section 11A of the Industrial Disputes Act, 1947 to interfere with the order of dismissal and set aside the same. Hence, he prays that an award may be passed in his favour.

4. As against this, the Respondent contended that the Petitioner indulged in certain serious and gross misconducts and the said misconducts were proved in disciplinary enquiry held as per Bipartite Settlement, resulting in the Respondent/Bank imposing the punishment of removal from service. The charges are on 13-9-97 the petitioner obtained a consumer loan for purchase of BPL colour television on the basis of proforma invoice but he has not actually purchased the article for which the loan was sanctioned by the bank. When the Branch Manager has asked him he has prematurely closed the loan on 7-4-99. The 2nd charge was on 13-9-97 a debit voucher for Rs. 3,000/- representing his margin money for the above referred consumer loan was not debited to his S. B. Account No. 108. He has initialled in the respective voucher as if it was posted in the ledger account but the voucher was actually posted on 28-11-97 two months after

the date of the vocher. The third charge is on 14-3-98 he has obtained two demand drafts bearing Nos. 402666 and 402667 for Rs. 402/- each by issuing withdrawal slips on his S. B. account No. 108. But the relative withdrawal slip for Rs. 834/- [draft amount+exchange amount] was not posted in his S. B. account and it came to light at the time of balancing of branch books. Further it is observed from the branch books that he has meddled with entries in transfer scroll. S. B. day book and security forms issued register in order to conceal the above fraudulent transactions. The fourth charge is on 16-3-98 he has availed the festival advance of Rs. 5,500/- without ensuring, the recovery of instalment for the month of February, 1998 and it was committed deliberately as he was aware of his festival advance account position as a clerk attached to establishment section at the branch. He has utilised the festival advance to adjust the overdraft caused on account of two demand drafts and these acts are much prejudicial to the interests of the bank and hence, the enquiry was conducted and he has been removed from service. The Petitioner sent the reply dated 20-9-99 accepting that he has committed the misconducts and regretted for the lapses. Even after this the Respondent/Bank appointed one Mr. Ramakrishnan as Enquiry Officer for conducting the enquiry against petitioner. Even in the enquiry, the Petitioner accepted all the four charges committed by him. The Petitioner participated wholly in the enquiry and affirmed his stand that he had accepted the charges. Only on his consent the documents 1 to 13 were marked. Only after scrutinizing the Enquiry Officer's findings, the Disciplinary Authority by his order dated 16-9-2000 proposed the punishment of removal from service and has given an opportunity to the Petitioner as to the nature of the proposed punishment. Even in the explanation in this case, the Petitioner has accepted the misconducts and he contended that misconducts were committed due to pressure of work. The misconduct of tampering the bank records and concealing the same are grave misconducts and the Respondent/Bank has lost the confidence in the petitioner and hence the punishment of removal from service was ordered. It is false to allege that Enquiry Officer has cross examined the Petitioner only because the Petitioner has lost his credibility with respondent/Bank, the Respondent/Bank lost confidence on the Petitioner and hence snapping of employer-employee relationship with benefits was imposed by way of punishment. Hence, the Respondent prays that the claim may be dismissed with costs.

5. The points for my determination are—

(i) "Whether the action of the management of State Bank of India in removing the Petitioner from services is justified?"

(ii) "To what relief the Petitioner is entitled?"

Point No 1 :—

6. In this case it is admitted by the Petitioner and the Respondent that the Petitioner was appointed as a clerk/typist in the Respondent/Bank's Mudukulathur Branch on 22-12-87 and he has put in 13 years of continuous service and on 1-9-91, charge memo was issued for four charges. The first charge is that the Petitioner obtained consumer loan for the purchase of BPL colour television, but he has not actually purchased the article for which the loan was obtained. When the Branch Manager has asked him, he has prematurely closed the loan on 7-4-99 itself. The second charge is a voucher for Rs. 3000/- representing his margin money for the above referred consumer loan was not debited to his S. B. Account No. 108. Even though he has initialled, as if it was posted in the ledger account, it was actually posted on 28-11-97 i.e. two months after he has initialled. The third charge is that he has obtained two demand drafts for Rs. 402/- each issuing withdrawal slips on his S.B. account. but the withdrawal slip was not posted in his S. B. account and it came to light only at the time of balancing the branch books. Further he has meddled with the entries in the transfer scroll and S. B. day book and security forms issue register in order to conceal the above fraudulent transactions. The fourth charge is that the Petitioner availed the festival advance of Rs. 5,500/- without ensuring the recovery of instalment for the month of February, 1998 and he has utilised the festival amount to adjust the demand draft amount in his account caused on account of two demand drafts purchased as mentioned above. The Respondent alleged that thus the Petitioner has prepared the drafts in a fraudulent manner by surreptitiously removing the security forms and in this process relative draft applications and S. B. withdrawal slips are missing. Thus, he has indulged in acts which are prejudicial to the interest of the bank and the bank has lost confidence in the Petitioner and after due enquiry as per the Bipartite Settlement and after giving full opportunity to the Petitioner, the bank authorities have come to the conclusion and imposed the punishment of removal from service and under such circumstances, it cannot be questioned by the Petitioner.

7. As against, this, the Petitioner contended that the enquiry conducted by the Respondent was not proper and even at the beginning of the enquiry, the Enquiry Officer has cross examined the Petitioner, which is against the principles of natural justice. The Enquiry Officer has not recorded the proceedings in verbatim and only recorded jottings and he has not offered any opportunity to bring his witness and therefore, the findings of the Enquiry Officer are perverse and one sided. But on the side of the Respondent, it is contended that on seeing the Enquiry Officer's findings and even before that in the explanation the Petitioner has accepted his guilt and he has stated only due to pressure of work, he has done some of the misdeeds and he further stated that owing to mental strain and

pressure of work, he has committed the mistakes without any mala fi[illegible]ntention and therefore, it cannot be said that the Enqu[illegible]fficer has not given any opportunity for the Petitione[illegible]d these allegations are made only as an afterthought and only to dislodge the findings giving by the Enquiry Officer.

8. The next contention of the petitioner was the final orders of the Disciplinary Authority and also Appellate Authority are not speaking orders and they have not analysed the various points raised by the Petitioner and no valid reason was given in those orders and further contended that the Disciplinary Authority and Appellate Authority had not applied their mind to the various points which he has raised in his submissions. But, when the Petitioner has accepted the charges framed against him and pleaded for a lenient view, I don't understand the contention of the Petitioner that the Disciplinary Authority and Appellate Authority have not passed speaking orders. From the beginning to the end in all the explanations, the Petitioner has not disputed the claim of the management and therefore, I don't find any substance in the contention of the Petitioner that the orders of the authorities are perverse and one sided and they have not applied their mind and passed the orders.

9. The next contention of the learned counsel for the Petitioner is that Disciplinary Aurthority has not considered the past unblemished record of service and they failed to see that there was no loss to the bank and no prejudice was caused to the interest of the bank and therefore, the punishment awarded by the Respondent/ Bank is not justified and it is against the provisions under para 521 of Sastry Award and Bipartite Settlement.

10. On behalf of the Respondent, it is argued that if the misconduct of the delinquent employee is grave, the absence of penalty during his earlier period of service by itself would not constitute a sufficient basis for holding the penalty is not in accordance with the Bipartite Settlement or Sastry Award and where the misconduct established is a grave one, it cannot be said that the management has not looked into the past record of the Petitioner. Further only because of that itself is not sufficient to come to a conclusion that the order of dismissal could have been passed without the past record of service has been taken into account. The reference to past record of service in Bipartite Settlement is not meant to render as ineffective the order of termination passed as a consequence of grave misconduct having been proved. In this case, the Petitioner was tampering the bank records and concealing the same which are serious in nature and by these grave misconducts the Petitioner has made the bank to loose confidence in the Petitioner and therefore, the punishment of removal was ordered by the Respondent/ Bank which is just and proper in the circumstances of the case.

11. Though, I find some force in this cont[illegible]n, I find these misconducts are not so serious which warrant the punishment of removal of the Petitioner from service, because in this case even though the Petitioner has meddled or tampering with records, it was only with his accounts, though we cannot say that these misconducts are right things, I find the punishment imposed by the Respondent to the Petitioner herein in this case is harsh and therefore, under section 11A of the Industrial Disputes Act, 1947, the Tribunal has got every power to interfere with the order of dismissal and to mould the relief claimed by the Petitioner. Therefore, I find this point in favour of Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

12. Though the Petitioner's misconducts had been proved, I find the punishment awarded by the Respondent/ Management is harsh, therefore, I find a lesser punishment is to be awarded to the Petitioner. Under such circumstances, I find the punishment of stoppage of two increments with cumulative effect is to be awarded to the Petitioner and I think, it is just in the stated circumstances of this case.

13. In view of my above conclusion, the Petitioner Sri A. Bose is to be reinstated in service of the II Party/ State Bank of India and in the stated circumstances, he is entitled to only (50%) fifty percent of the back wages with attendant benefits. No Costs.

14. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 7th January, 2004).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

For the I Party/Workman : Nil

For the II Party/Management :

Ex. No.	Date	Description
M 1	03-12-98	Xerox copy of the letter from Respondent/Bank to Petitioner calling for explanation.
M 2	10-12-98	Xerox copy of the reply given by the Petitioner.
M 3	01-09-99	Xerox copy of the charge sheet issued to Petitioner.
M4	20-09-99	Xerox copy of the reply given by the Petitioner.

M5	30-09-99	Xerox copy of the order appointing Enquiry Officer.
M6	Nil	Xerox copy of the letter from Enquiry Officer to Delinquent employee.
M7	23-12-99	Xerox copy of the enquiry proceedings.
M8	11-01-2000	Xerox copy of the enquiry report.
M9	28-06-2000	Xerox copy of the letter from Respondent forwarding Enquiry report.
M10	19-07-2000	Xerox copy of the reply submitted by Petitioner.
M11	16-09-2000	Xerox copy of the order passed by Disciplinary Authority proposing punishment.
M12	28-09-2000	Xerox copy of the reply submitted by Petitioner.
M13	03-10-2000	Xerox copy of the order of Disciplinary Authority imposing punishment of removal from service.
M14	03-10-2000	Xerox copy of the personal hearing notes.
M15	15-11-2000	Xerox copy of the appeal preferred by Petitioner to Appellate Authority.
M16	27-12-2000	Xerox copy of the proceedings of personal hearing Before Appellate Authority.
M17	08-01-2001	Xerox copy of the final order of Appellate Authority.
M18	09-03-2001	Xerox copy of the 2A petition filed by Petitioner.
M19	Nil	Xerox copy of the service sheet of Petitioner.

नई दिल्ली, 23 फरवरी, 2004

का. आ. 683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लक्ष्मी विलास बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और इनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या आई० डी० नं० 342/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-2-2004 को प्राप्त हुआ था।

[सं. एल-12012/62/1995-आई.आर. (बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 23rd February, 2004

S. O. 683.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 342/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lakshmivilas Bank Ltd., and their workmen, which was received by the Central Government on 20-02-2004.

[No. L-12012/62/1995-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 14th January, 2004

PRESENT : K. Jayaraman, Presiding Officer

INDUSTRIAL DISPUTE NO. 342/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) between the Management of Lakshmivilas Bank Ltd. and their workman Shri Subramaniam)

BETWEEN

Sri S. Subramaniam : I Party/Workman

AND

The Chairman & Managing Director, Lakshmivilas Bank Ltd., Kathaparai, Kanur Trichy Dt. : II Party/Management

APPEARANCE :

For the Petitioner : Mr. S. Vaidyanathan, Advocate

For the Management : M/s. T. S. Gopalan & Co., Advocates

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-12012/62/95-IR (B-I) dated 29-12-2000 has referred the following dispute to this Tribunal for adjudication :

Whether the action of the management of Lakshmi

Vilas Bank Ltd., Trichy in terminating the services of Sri S. Subramanian w.e.f. 7-5-94 is justified? If not, what relief is the concerned workman entitled?"

2. After the receipt of the reference, it was taken on file as I. D. No. 342/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner was appointed as Jewel Appraiser in the II Party/Management bank w.e.f. 1-6-89. The Petitioner was required to work under the control and supervision of the bank authorities with the equipment supplied by the II Party/Management. The Petitioner was required to be present in the II Party/Management bank premises on all working days. The Petitioner is a workman under section 2(s) of the Industrial Disputes Act having been employed under the II Party/Management as Jewel Appraiser. The Petitioner was discharged his duties faithfully, efficiently and sincerely for nearly five years continuously without any break. Therefore, he is entitled to the benefits of regularisation of service as per Section 3(1) of Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. Besides that the Petitioner was also asked to do clerical work of filling pass book for jewel loan, making entries in the said pass book whenever the customers remit interest and principle and writing letters to customers reminding them for repayment of jewel loan etc. While so, on 7-5-94 the II Party/Management illegally, unjustifiably terminated the Petitioner from service. The termination from service of the Petitioner would amount to retrenchment as defined under section 2(00) of the Industrial Disputes Act. Even though the order of termination states that his contract has been terminated, the so called contract is sham and nominal and not real or genuine one. The termination is illegal, unjustified and contrary to Section 25 F of the Industrial Disputes Act, 1947. Therefore, the said termination is not only illegal but also violative of principles of natural justice. Hence, he prays that an award may be passed in his favour.

4. As against this, the Respondent/Management in its Counter Statement alleged that the Respondent is a private banking company and its branches all over the country including the one at Tirunelveli. One type of loan given by the Bank to its constitutents is called as jewel loan which is a loan sanctioned against deposit of gold jewel. In order to assess the value of gold jewel, the bank engages Jewel Appraisers who are acquainted with the method of assessing the value of gold jewels. There are specified days in a week when jewel loan applications are entertained. There is no scope to carry on the work of a Jewel Appraiser for entire normal business hours nor the work will involve definite hours. As such the work of Jewel Appraiser does not require control or supervision by bank officials. Therefore, the bank engages Jewel Appraiser on a regular retainer basis. Moreover, the charges that are paid to the Jewel Appraiser are debited to the account of borrower and therefore, the services rendered by Jewel Appraiser should be deemed to be service rendered to borrower. There is no minimum guranteed remuneration. They are free to carry on their own occupation, but the only condition being that they should not undertake the work of Jewel Appraisal for any other bank or financial institution. They are not required to attend to any work other than appraisal of gold jewels and they are not subject to disciplinary control of the bank officials. The Jewel Appraisers' engagement is similar to the engagement of a lawyer, auditor or a Medical Officer. Their engagement would not amount to employment in the service of the bank. On the basis of the above instructions on 29-5-89, the Tirunelveli branch of the Respondent/Bank issued a letter to Petitioner engaging him as a Jewel Appraiser on commission basis w.e.f. 1-6-89. The Tirunelveli branch used to receive applications for jewel loans only on Tuesdays, Wednesdays and Thursdays. The Petitioner was required to be present in the branch only between 10.00 am to 11.00 am on those three days. In May, 1994, it was found that the Petitioner was not enthusiastic in continuing as a free lancer and he was more keen in getting him absorbed in the services of Respondent/Bank. Hence, on 7-5-94 the contract with the Petitioner was put an end to. Since the bank is accountable to Directorate of Weights and Measures for authenticity of weights and weighing scales, therefore weighing scales and weights are provided by Respondent/Bank for the work of jewel appraisal is done in bank premises. On that ground, it cannot be concluded that the Jewel Appraiser is an employee of the bank. The Petitioner was required to do only jotting the value of jewel pledged by way of security and making entries in the jewel loan applications. Since the Petitioner was not an employee, his non-engagement would not attract the provisions of Industrial Disputes Act, 1947. As such, Section 25G and 25H of Industrial Disputes Act would not apply. Hence, the Respondent prays that the claim may be dismissed with costs.

5. The points for my consideration in these circumstances are—

(i) Whether the action of the management of Respondent/Bank in terminating the services of Sri S. Subramanian w.e.f. 7-5-94 is justified?

(ii) To what relief the Petitioner is entitled?

Point Nos. 1 & 2 :—

6. In this case, the Petitioner who is admittedly a Jewel Appraiser claimed that he is a workman under Industrial Disputes Act and he disputes the termination ordered by the Respondent/Management. It is an admitted fact that the Petitioner was engaged by the Respondent/ Bank for appraising the gold jewels or ornaments to verify the quality of the gold for granting jewel loans to its customers. According to the Respondent, the Jewel Appraiser are free lancers i.e. independent contractors and styled as professionals (goldsmiths) who are engaged for a very limited purpose and their services were utilised based on 'contracts of service' and that the terms of contracts are alone binding between the parties. As against this, it is contended on left of petitioner that the nature of duties discharged by Petitioner and the relationship between the bank and the workman was that of employer and workman and therefore, he is entitled to the same benefits as any other workmen in the bank. Therefore, the first and foremost point to be considered in this case is whether Jewel Appraiser would be a workman as defined under section 2(s) of the Industrial Disputes Act, 1947. Section 2(s) of the Act says "workman" means (any person including apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, where the terms of employment be express or implied and for the purpose of any proceeding under this Act in relation to an industrial dispute includes any such person who has been dismissed, discharged or retrenched in connection with as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute but does not include any such person..... . Therefore, it is obvious from the language of the section that it is very wide import. The crucial words in that section are "employed in any industry" they have been construed as indicating a 'contract of service'. It has been held that unless there is a 'contract of service' a person cannot be said to be a workman as distinguished by the Act.

7. The learned counsel for the Respondent argued that in this case, the Petitioner's work is a 'contract for service' and not 'contract of service'. Therefore, there must be a distinction between the 'contract of service' and 'contract for service'. The High Courts and Supreme Court have clearly laid down the difference between 'contract of service' and 'contract for service'. One of the main difference is under 'contract of service' a man is employed as part of business, whereas under 'contract for service' his work although done for the business is not integrated into it but is only an accessory to it. The learned counsel for the Respondent argued that in this case for an appraiser, no qualification has been prescribed for the post; what the Respondent/Bank paid to the appraiser is only a commission and not a remuneration; the appraiser can be employed elsewhere, the only condition is that he should not carry out the work of appraisal to any other bank or any financial institution and the appraiser need not sign attendance register and he should not write any accounts. The bank cannot initiate any disciplinary action against the appraiser and the bank has no power to transfer the appraiser from one place to another and no minimum remuneration for any period is fixed to be payable to the appraiser. Apart from the commission, the appraiser is not entitled to any other payment. These conditions clearly prove that the Petitioner's work is only a 'contract for service' and not 'contract of service'.

8. As against this, the counsel for the Petitioner argued that the High Courts and Apex Court bar repeatedly held in so many decisions that Jewel Appraisers' work in bank is like a part time work and therefore, appraiser is able to serve more than one master does not militate against him and he being a workman as defined by the Act. He further relied on the rulings in 1957 I LLJ 477 DHARANGADHARA CHEMICAL WORKS LTD. VS. STATE OF SAURASHTRA, wherein the Superme Court has held that "*the correct method of approach would be to consider whether having regard to the nature of the work, there was due control and supervision by the employer and it was also held that a person can be a workman even though he is paid not per day but by job.*" The counsel for the Petitioner further argued that even in the appointment order issued to the Petitioner by the II Party/Management which is marked as Ex. M3, it is clearly stated that he should not appraise the jewels for any other banks or financial institutions, that he should carry out the work of appraisal in the presence of official of the bank and should use the instruments supplied by the bank. Further, he was also asked to do clerical work of filling up passbook for jewel loan, making entries in the said pass book whenever the customers remit interest and principle and writing letters to customers reminding them for repayment of jewel loan etc. The above duties even though not stipulated in the order of appointment issued by II Party/ Management, the Respondent/Bank extracted the clerical work, apart from Jewel Appraisal work and thus, the Petitioner discharged the clerical nature of work also in the bank. He also relied on the exhibits produced in this case from Ex. M4 to M 8 namely jewel loan deposit ledger for the years 1990 to 1997 in which the first portion of the ledgers had been filled up only by the Petitioner.

9. But, as against this, the counsel for the Respondent argued that only in order to assess the value of gold jewels, the bank engaged the jewel Appraiser, who are appointed for assessing the value of gold jewels and even in this case, the Petitioner was engaged only on specific days in a week i.e. from Tuesday to Thursday and there is no scope to carry on the work of Jewel Appraiser for the entire normal business hours nor the work involved for definite hours. It is like a work of an expert and it depends upon the knowledge and skill of the Jewel Appraiser as such, the

work of Jewel Appraiser does not require control or supervision by the bank officials. Therefore, the Petitioner was engaged as a Jewel Appraiser on retainer basis. Moreover, the charges paid to Jewel Appraiser are debited to the account of borrower and therefore, the services rendered by the Petitioner should be deemed to be service rendered to the borrower and there is no minimum guaranteed remuneration and Jewel Appraisers are paid on the basis of commission subject to minimum amount for each loan and the Jewel Appraisers are free to carry on their own occupation. The only condition being is that he should not undertake the work of Jewel Appraisal for any other banks or financial institutions and therefore, in this case, the petitioner is not a workman and therefore, he cannot question the termination of contract entered into between him and the bank. The learned counsel for the Respondent further relied on rulings 1973 II LLJ 495 SILVER JUBILEE TAILORING HOUSE AND OTHERS VS. CHIEF INSPECTOR OF SHOPS & ESTABLISHMENTS & ANOTHER, which deals with the meaning of a person employed as per the Andhra Pradesh Shops and Establishments Act, 1951 and further relied on the ruling in 1961 II LLJ 797 LAKSHMIPATHI (DR. T.N.) VS. STANDARD VACCUM OIL COMPANY LTD., MADRAS. In that case, medical practitioner engaged by a concern engaged for import, storage and distribution of petroleum products to render medical services of its employees in which the Madras High Court has held that " terms of contract of the Petitioner with the company showed that his status was that of an consulting physician who was being paid a retainer fee rather than that of paid employees." The next case relied on by the Respondent is 1964 II LLJ 131 GRAMOPHONE COMPANY LTD Vs. Its WORKMEN, in which the Supreme Court has held that where gratuity scheme is extended with regard to certain persons who are musicians and so far as these four musicians are concerned, the Tribunal held that " no evidence has been led on behalf of the workmen to show that the work of musicians was constant and regular in the same manner as the work of clerks and sepoys and therefore, rejects the demand in respect of four musicians and held we see, no reason to interfere with the finding of the Tribunal." The next case relied on by the counsel for the Respondent is 1978 I LLJ 312 EMPLOYERS IN RELATION TO PUNJAB NATIONAL BANK VS. GHULAM DASTAGIR wherein the Supreme Court while considering a driver employed by Area Manager of the bank in Calcutta, whether he is an employee of the bank or not, in which the Tribunal has found that he was an employee of that bank and the Supreme Court held that " there was no nexus between the driver and the bank and hence, the Tribunal's award has to be set aside. In the absence of materials to make out that driver was employed by the bank who was under its control and was paid salary by the bank and otherwise was included in the army of employees in the establishment of the bank,. it cannot be assumed that the crucial point has been proved and rejected the claim of the driver." Lastly, the learned counsel for the Respondent relied on the ruling 1992 II LLJ 6 MANAGEMENT OF PURI URBANK CO-OPERATIVE BANK Vs. MADHUSUDAN SAHU AND ANOTHER, wherein the Supreme Court has held that " gold appraiser is engaged by the bank to weigh the ornaments brought for the purpose of pledge and to appraise the quality, purity and value. The bank could direct the gold appraiser to do this work but not the manner in which he shall do it and that was left to the gold appraiser exclusively as it depended on his skill, technique and experience. The indemnity bond executed by the appraiser makes the gold appraiser responsible for all his acts as an appraiser and be accountable for the loss sustained by the bank on account of under valuation of the gold pledge. These terms inhered in the bank the power to warn the gold appraiser and to remind him that he was not expected to be negligent in his duty, still there was a fair element of freedom though coupled with responsibility for the gold Appraiser in the manner in which he could do his work. The bank has got a list of gold appraisers and it is not obliged to allot work to any one of them. Under such circumstances, no master and servant relationship stood established in engaging a jewel Appraiser of ornaments. Therefore, gold appraiser is not a workman within the meaning of section 2(s) of the Act." The learned counsel for the Respondent strongly relied on the rulings and said that there is no relationship of master and servant and employer and employee relationship between the Respondent/Bank and Petitioner and therefore, the Petitioner is not entitled to claim as a workman in the bank and as such the termination of contract cannot be questioned before this forum.

10. Again, the learned counsel for the Petitioner argued that even though the Supreme Court has held in 1992 II LLJ 6 that the gold appraiser is not a workman within the meaning of section 2 (s) subsequently, in so many cases, the Supreme Court has held that the appraisers of gold in a bank are workmen in the bank and even in the case of India, Bank represented by General Manager Vs. Workmen 1986 II LLJ 59, wherein the Single Bench of the High Court of Madras, relying on the judgement of Supreme Court held that " gold appraisers of Indian Bank are employees of the Indian Bank and they are entitled to the benefits of Industrial Disputes Act." It was also upheld by the Division bench of the Madras High Court. Further in a recent judgement 2001 II LLJ 345 INDIAN OVERSEAS BANK, CHENNAI Vs. PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CHENNAI, the Madras High Court after considering all the judgements of the Supreme Court and also the High courts have come to a conclusion that "gold appraisers are part time workmen and upheld the contention of the Union, Further. the same contention was raised even in those cases, they were negatived by the High Court and held in cases where written agreements or contracts are relied upon, the veil must left be lifted to

find out the reality and the conspectus of some or all of the factors must be taken into account. As far as the appraisers are concerned a place of work is allotted for them, they are bound to be present in the bank premises during the forenoon of business hours, even though not for the entire business hours without prior permission they cannot absent themselves, part of the tools required for their job is supplied by the bank and commission collected from the customers are paid at the end of the month depending upon the quantum of work done by them." All those satisfy the vital tests laid down by the Supreme Court and hence the decision of the Tribunal has to be upheld and therefore, even in any case, the work of the jewel appraisers must be taken as part time employees of the bank.

11. But as against this, the counsel for the Respondent argued that in the ruling 1986 II MLJ 59 INDIAN BANK VS. WORKMEN, even though the Division Bench of High Court held that gold appraisers of Indian Bank are part time employees of the bank in that cases the Indian Bank has fixed monthly minimum of Rs. 150/- and enables that part time workmen to get paid on the quantum of work done by collecting it from the customers and therefore, the High Court has come to a conclusion that they are part time employees of the bank. In this case no fixed monthly minimum amount is fixed and therefore, this is only a 'Contract for service' and therefore, they cannot be equated as that of appraisers in Indian bank case. But, I find there is no point in this contention because, the Supreme Court and High Court held in number of decisions that this is not a criteria to come to a conclusion whether the person is a workman or not. Further, the High Court in number of cases held that the part time work, who is able to serve more than one master does not militate against him as a workman as defined by the Industrial Disputes Act and further, the appraisers have to do clerical work by filling up the relevant registers in the bank. Therefore, the circumstances clearly prove beyond doubt that the petitioner is a workman as defined under the Act.

12. Further, the learned counsel for the Petitioner argued that in 1992 II LLJ 6 will have no bearing on this case. as the question which we are facing in this case did not arise before the Supreme Court in that case. The learned counsel for the Petitioner further argued that in the matter of handling a gold jewel, the jewel appraiser has been invested with a greater responsibility and the entire borrowing as well as the retention of the jewel in the bank is dependent upon the faithful and sincere services of a jewel appraiser. In other words there being no other documents to verify the genuineness of the gold pledged or the subsequent retention of it till it is returned back to concerned borrower at the time of discharge of the liability the certificate issued by jewel appraiser at every stage is given greater value and importance without which the whole transaction would be invalid. He further argued that even assuming that the role played by jewel appraiser in the matter of filling up of applications, Maintenance of register namely Ex. M 4 to M8 etc., is of very little consequence, having regard to greater responsibility reposed in them in the matter of grant of jewel loan the question is whether it could still be said that the role of a jewel appraiser in the bank management is so very negligible that their interest need not be taken care of to the extent to which it is claimed in the dispute.

13. I find much force in the contention of the learned counsel for the Petitioner. Therefore, I find there is no point in the contention of the Respondent that there was no contractual relationship between the bank management and the petitioner namely the Jewel Appraiser and the nature of duties performed by the Petitioner are negligible in consideration of the bank management in this case. It is a clear evidence on record that the scrutiny of the jewel pledged discloses that the services of the appraiser was almost regularly availed by the bank apart from the fact that such services rendered by the Jewel Appraiser are indispensable inasmuch as solely dependent on the certificate issued by the jewel appraiser. Further, dealing with the jewel loan applications involves various details relating to borrower, the details about the nature of jewel sought to be pledged and other relevant factors. Therefore, the jewel appraiser while scrutinizing the jewel loan application as well as the quality and quantity of jewel sought to be pledged had to spend considerable time and therefore, it cannot be said that the services of jewel appraisers that is being availed of by the bank is so very negligible in point of time. Therefore, I accept the contention of the Petitioner that he is a workman as mentioned in the Industrial Disputes Act.

14. Then again the counsel for the Respondent argued that even assuming for an argument sake without conceding that the Petitioner is a workman and he is entitled to be reinstated in service, in this case while he was examined as WW1, he has clearly stated that he is not interested in employment on casual basis and therefore, even assuming that he is to be reinstated in service on casual basis namely as Jewel Appraiser, he is not interested to do the work in the bank and he relied on the rulings of the High Court of Madras in 2003 I LLJ 700 BASKAR, R & OTHERS Vs. AUTO CARE CENTRE, CHENNAI AND ANOTHER, wherein the High Court has upheld the award passed by the Tribunal Stating that "the Labour Court refused to grant reinstatement on the ground that the petitioners are not interested to join as casual workers, when the Petitioners themselves are not interested for reinstatement in the original employment as casual labour, while moulding the relief the labour Court has awarded only compensation and it is held that the labour Court has rightly rejected the claim for reinstatement made by the Petitioners." In this case, even assuming for an argument sake without conceding that the Petitioner is to be reinstated in service of the bank as part time jewel appraiser, it is his

evidence that he is not interested to be appointed on casual basis as part time employee and therefore, he should not be entitled to be reinstated in service as jewel appraiser (part time). He further argued that the provisions of Industrial Disputes Act has given wide powers and jurisdiction to make out appropriate orders in determining industrial disputes brought before it and in 1957 II LLJ 696 SHETTY Vs. BHARAT NIDHI LTD. the Supreme Court while awarding reinstatement of a dismissed employee and while the employer has not implemented such award and on an application by the employee under Section 22 has held that "having regard to the considerations detailed above, it is impossible to compute the money value of this benefit of reinstatement awarded to the appellant with mathematical exactitude and the best that any Tribunal or Court would do under the circumstances would be to make as correct estimate as is possible bearing of course in mind all the relevant factors pro and con. We ourselves have devoted very anxious thought to this aspect of the matter and we have come to the conclusion that having regard to all the circumstances of the case, it would be reasonable to compute the benefit of reinstatement which was awarded to the appellant at an amount of Rs. 12,500/- only." The learned counsel for the Respondent placed much reliance on these two judgements and argued that even if this Tribunal has come to a conclusion that the Petitioner is entitled to be reinstated in the previous job i.e jewel appraiser, since it is the evidence of the Petitioner that he is not interested to be employed on casual basis, he should not be reinstated in service on casual basis and he is entitled only to compensation as being fixed by this Tribunal.

15. But, again the counsel for the Petitioner argued that under the Industrial Disputes Act, every Industrial Tribunal have given wide powers and jurisdiction to make appropriate awards in determining the industrial disputes brought before it and the Industrial Tribunal may impose new obligation on the employer in the interest of social justice and with a view to secure peace and harmony between the employer and his workmen and full cooperation between them and such an award may even alter the terms of employment if it is though fit and necessary to do so and in deciding industrial disputes the jurisdiction of the Tribunal is not confined to the administration of justice in accordance with law. Under such circumstances, even accepting the contention that the Petitioner has clearly stated that he is not interested in casual employment this Tribunal has got every power to impose new obligations on the bank management in the interest of social justice and the Tribunal can pass an order for reinstatement of the Petitioner and also to make him a permanent employee of the bank.

16. But, even accepting that the Tribunal has got every power to impose new obligations on the employer, in view of the judgement in 2003 I LLJ 700, I find since the Petitioner is not interested in casual employment as jewel appraiser, I find he is entitled only for compensation. In this case, even though it is impossible to compute the money value of this benefit of reinstatement which is to be passed with mathematical exactitude, I find this Tribunal under the circumstances shown before the court would be to make as correct estimate as possible is only Rs. 15,000 (Rupees Fifteen Thousand only) and I think in the circumstances shown before me, it would be reasonable to compute the benefit of reinstatement.

17. Therefore, I direct the II Party/Management to pay the Petitioner Sri S. Subramaniam a sum of Rs. 15,000 (Rupees Fifteen Thousand only) within three months of the receipt of the Award as compensation for reinstatement of the Petitioner/Workman. No Costs.

18. The reference is answered accordingly.

(Directed to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 14th January, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Workman : Sri S. Subramaniam

For the II Party/ Management : None

Documents Marked :

For the I Party/Workman : Nil

For the II Party/Management :

Ex. No.	Date	Description
M1	21-04-89	Xerox copy of the application given by Petitioner for the post of appraiser
M2	17-05-89	Xerox Copy of the letter of Asst. General Manager of Respondent/ Bank to Branch Manager, Tirunelveli Branch granting permission to engage appraiser
M3	29-05-89	Xerox Copy of the letter of Branch Manager to Petitioner for engaging him as appraiser.
M4	1990-92	Jewel loan deposit ledger-personal
M5	1991-93	Jewel loan deposit ledger-personal
M6	1994-97	Jewel loan deposit ledger-personal
M7	1992-94	Jewel loan deposit ledger-personal
M8	1988-97	Jewel loan deposit ledger-Agriculture

नई दिल्ली, 23 फरवरी, 2004

का.आ. 684.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या आई. डी. नं. 68/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-02-2004 को प्राप्त हुआ था।

[सं. एल-12012/92/2002-आई.आर.(बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 23rd February, 2004

S.O. 684.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 68/2002) of the Central Government Industrial Tribunal/Labour Court, Chennai, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 20-02-2004.

[No. L-12012/92/2002-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 9th January, 2004

PRESENT : K. Jayaraman, Presiding Officer

INDUSTRIAL DISPUTE NO. 68/2002

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) between the Management of State Bank of India, Local Head Office, Chennai and their workmen]

BETWEEN

Sri R. Venukumar : I Party/workman

AND

The General Manager, State Bank of India, Local Head Office, Chennai : II Party/Management

APPEARANCE:

For the Petitioner : Mr. R. Arumugam and N. Krishnakumar, Advocates

For the Management : M/s. S. Kanniah and N. Shanmugasundaram, Advocates

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-12012/92/2002-IR (B-I) dated 25-07-2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of State Bank India in imposing the punishment of discharge from service on Sri R. Venukumar is justified? If not, what relief he is entitled?"

2. After the receipt of the reference, it was taken on file as I. D. No. 68/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their respective Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner was appointed as a messenger in the Respondent/Bank from 23-5-79, then he was promoted as Assistant from 1-8-84. While so, by an order dated 18-5-95 the Respondent placed the Petitioner under suspension w.e.f. 23-5-95, then issued a charge sheet dated 27-7-95 alleging that he misused the LFC and vehicle loan facilities and misappropriated a sum of Rs. 12,330 and absented from duty without having sufficient leave to his credit and issued withdrawal slips or cheques on his S. B. Account to third parties without maintaining sufficient funds. Further, the Respondent has ordered an enquiry to be conducted for the charges and the Enquiry Officer has fixed the date on 24-1-96 and the Petitioner has attended the enquiry on that day and the Enquiry Officer concluded the enquiry on the same day and submitted the findings holding that the charges are proved. The said enquiry finding is perverse and one sided. Further, the Respondent by a letter dated 10-3-97 proposed to impose the punishment of discharge and directed to attend the personal hearing. But, suddenly, the Respondent turn around and sent another letter dated 24-8-98 stating that the Respondent ordered for a denovo enquiry by another Enquiry Officer once again, but which was ordered without giving any opportunity. The said denovo enquiry was ordered in order to set right certain mistakes committed by the first Enquiry Officer. In the second time also, the enquiry was not conducted properly and no opportunity was given to the Petitioner. The principles of natural justice was not followed and the finding of the Enquiry Officer is also perverse and one sided. Further in the absence of specific provision, the Respondent's action in ordering second enquiry is illegal and the final order passed on the basis of illegal enquiry is liable to be set aside. The Enquiry Officer failed to consider the statement of the Petitioner that one Sri Arunachalam, Chief Manager, Zonal Office, Madurai who has conducted the preliminary investigation in respect of the alleged act has induced the Petitioner to accept the charges to avoid further harassment by the local police and he was also given to understand that in case, if the charges are not accdepted he would be thrown out of employment and if

he accepts, he promised to protect his job and also referred the case of one Mr. Selvaraj, Cash Officer, Kuzhithurai whose job was protected as he had admitted the charge of misappropriation of cash to the tune of Rs. 34,000/- from the currency chest. Even though the Petitioner has not committed any misconduct, he reluctantly accepted the charge on the promise offered by the aforesaid officer, who hold high office in the bank. The Enquiry Officer had himself admitted in the proceedings that charge Nos. 3 and 5 are defective but he found that the said charges are proved against the Petitioner. The Enquiry Officer has also failed to note that the witnesses failed to establish the charge of misappropriation mentioned in Charge No. 3. The Enquiry Officer perversely found and condluded that all the charges against him are proved. The Enquiry Officer, Disciplinary Authority and Appellate Authority of the Respondent/ Bank have failed to consider his plea that his confession was brought out by inducement of Mr. Arunachalam, Chief Manager, Zonal Office, Madurai before issuance of charge-sheet. Even though the charges 4 and 5 said to have been attracted provisions of minor misconduct only. The minor misconduct attracts the maximum punishment of stoppage of increment for a period not longer than six months. But the Disciplinary Authority after confirming the findings of the Enquiry Officer awarded the severe punishment of discharge of the Petitioner from service of the Respondent/ Bank and therefore, it is not maintainable. Hence, he prays that an award may be passed in his favour as prayed for.

4. As against this, the Respondent in the Counter Statement has alleged that the Petitioner has committed serious misconducts, hence the bank initiated disciplinary proceedings and he was placed under suspension. Subsequently, he was discharged from service. The charges framed against the Petitioner are—

(i) misutilisation of LFC facilities after availing an advance of Rs. 8,200/- on 14-2-94 to visit Nagpur along with his family members, without undertaking the journey, the Petitioner prepared a bogus bill for Rs. 10,570/-;

(ii) misutilisation of vehicle loan mount of Rs. 13,500/- sanctioned on 14-6-91 for purchasing a second hand Bajaj scooter bearing Registration No. TSA 9139, neither the vehicle was produced for inspection nor the related R. C. book was submitted with an endorsement in favour of the bank in support of purchase;

(iii) The Petitioner was in practice of misappropriating amount from and out of advance availed for postage and made fictitious entries in postage register. The amount misappropriated being Rs. 12,330/- on 33 occasions;

(iv) Availed leave on pro-rata basis and on loss of pay on several occasions; and

(v) Violated the rule of business of the bank for operation of S. B. account by issuing withdrawal slips/cheques without maintaining sufficient funds in his account.

The Petitioner participated in the enquiry which was held on 24-1-96 and he has admitted all the charges. Therefore, the Enquiry Officer found him guilty of charges. However, the Respondent/Bank has decided to conduct a full fledged enquiry so as to provide the petitioner to prove his innocence. By a communication dated 20-4-98 the Petitioner was informed about the denovo enquiry. The Petitioner has availed the opportunity and participated in the enquiry through his representative. The Enquiry Officer after the conclusion of proceedings submitted his report holding the petitioner guilty of all charges framed against him. Even after the second show cause notice the Petitioner has pleaded for imposition of minimum punishment for the misconduct committed by him. The Disciplinary Authority after going through the findings of the Enquiry Officer and the gravity of the misconduct proved against the Petitioner has imposed the punishment of discharge from service. Even in the appeal preferred by the Petitioner, the Appellate Authority has independently gone through the relevant records and also submissions made by the Petitioner have concurred with the findings of the Enquiry Officer and confirmed the punishment of discharge from service. The Petitioner has invariably admitted all the charges and has not disputed any one. Hence, the domestic enquiry conducted by the Respondent is fair and proper and therefore, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my determination are—

(i) "Whether the action of the Respondent/ Management in imposing the punishment of discharge from service on the Petitioner is justified?

(ii) "To what relief the Petitioner is entitled ?"

Point No. 1 :—

6. In this case on the side of the petitioner no document was marked and no witness was examined. But on the side of the Respondent nine documents were marked and no one was examined as a witness. The admitted case of the both sides is that the Petitioner who was appointed as meassenger and subsequently promoted as Assistant in the Respondent/ Bank was issued with a charge memo for alleged misconducts. Hence, the Respondent had initiated departmental proceedings and at the first instance, he was placed under suspension and subsequently, he was discharged from service. The contention of the Petitioner is though five charges have been framed against him, who charges are for minor offences and even though the three charges are considered to be major, the enquiry was conducted against him was not conducted in a just and proper way and therefore, the finding of the Enquiry officer is perverse and one sided. He further contended that Enquiry Officer has come to a conclusion that the has admitted all the charges framed against him, but on the other hand, its is only on the inducement of

one Mr. Arunachalam, Chief Manager of Zonal Office, Madurai, who has conducted some preliminary investigation/enquiry in respect of the alleged act which he has alleged to be committed and the said officer induced the petitioner to accept the charges to avoid further harassment by the local police and he has further threatened that if the charges are not accepted, the Petitioner would be thrown out of employment and if he accepts, he promised to protect the Petitioner's job and he also referred the case of one Mr. Selvaraj, Cash officer, kuzhithurai whose job was protected as he had admitted the charges framed against him namely misappropriation of cash to the tune of Rs. 34, 000/- from the currency chest. Therefore, even though the Petitioner has not committed any misconduct, he reluctantly accepted the charges with a belief that the promise offered by the officer who hold high office in the bank. It is his further contention that in this case, the Respondent has ordered first an enquiry through one Enquiry Officer and he has fixed the date and on that date the Petitioner appeared before him and he has concluded the enquiry on that day itself and also given a finding with eight sentences and on the basis of that report, the Respondent has also proposed the punishment of discharge, but subsequently, the Respondent appointed another Enquiry Officer and ordered for denovotrial , which is against the Bipartite and also the rulings of High Court and Supreme Court. Therefore, the punishment inflicted under the second enquiry is illegal and liable to be set aside.

7. As against this, it was contended on behalf of the Respondent that even though in the first enquiry the Petitioner admitted all the charges and the Enquiry Officer found him guilty, however, the Respondent/Bank has decided to conduct a full fledged enquiry so as to provide the Petitioner a sufficient opportunity to prove his innocence and therefore, ordered a fresh enquiry and it cannot be said that only to fill up lacuna the second enquiry was conducted. Even though, the Petitioner has contended that he was induced by Mr. Arunachalam, Chief Manager of Zonal Office, Madurai, there is nothing to prove that Mr. Arunachalam has threatened the Petitioner or induced him to accept the charges framed against him and only to wriggle out the situation, the Petitioner has taken this stand and no material was produced before the Enquiry Officer that he has made confession only on the inducement of the said officer. On the other hand, even before the first Enquiry Officer and even before the second Enquiry Officer, he has accepted the charges framed against him and he has given only explanation for all the mistakes. He pleaded only because of his family circumstances, he has done all these mistakes but to accept the said explanation or not is upon the Enquiry Officer and the Disciplinary Authority. The Enquiry Officer after considering the material evidence in this case and also the Petitioner's defence put forth before him and only upon going through all the records, he has come to the conclusion that charges have been proved against the Petitioner and therefore, it cannot be said that the Enquiry Officer's report was biased and perverse. Further, the Petitioner participated in the enquiry through his representative and he has also examined himself as a witness. Under such circumstances, it cannot be said that the enquiry was not held in a fair and proper manner Since he has availed the reasonable opportunity in the domestic enquiry and he has not made any complaint at the time of enquiry, now he cannot turn around and say that the domestic enquiry was not conducted in a just and proper way.

8. On perusing the documents and the arguments heard in this case, I come to the conclusion that the enquiry conducted in this case, is fair and proper and now the Petitioner has taken the stand only to escape from his liability.

9. Again, the learned counsel for the Petitioner argued that the Petitioner has paid all the amounts due by him to the Respondent/Bank and hence it cannot be said that the Petitioner has caused any loss to the Respondent/ Bank. Under such circumstances, the major punishment of discharge should not be awarded for these charges. It is his further contention that under section 11A of the Industrial Disputes Act, 1947, this Tribunal has got every right to reduce the punishment and mould the relief according to the case shown before this Tribunal. He further argued that even the Enquiry Officer has stated in the body of the enquiry report that with regard to the third charge that there is no absolute evidence or proof that the Petitioner has misappropriated to the tune of Rs. 13,500/- and the charges framed under Charge Nos 3 and 5 are defective, but in the result portion, he found the charges 3 and 5 are proved against the Petitioner, which is against the fundamental rule of the natural justice.

10. Though I find some force in this contention, on consideration of the entire evidence in this case, I find there is no substance in the argument of learned counsel for the Petitioner because the Petitioner has clearly admitted all the charges framed against him and he has given certain explanation for doing these mistakes or misdeeds, which was not accepted by the Enquiry Officer.

11. The learned counsel for the Respondent again argued that the Petitioner was an Assistant (Accounts), therefore, it would show that he was occupying the position of trust and confidence. The suspicion regarding the petitioner's conduct and integrity would not be said to be merely whimsical or fanciful. The fact that no direct evidence to show the misappropriation of the petitioner was established beyond reasonable doubt was not of material relevance, while considering the bona fides and reasonableness on the part of the management in loosing confidence in the employee. The admission of the Petitioner, which was received by the first Enquiry Officer and also by the second Enquiry Officer, was never in doubt and no allegation or mala fide was ever made against the said officials. Under such circumstances, is cannot be said that the punishment imposed by the Respondent/Management is harsh and therefore, the claim of the Petitioner should be dismissed. He also relied on the rulings reported in 2003

FJR (Factory Journal Report) Vol. 102 pg. 323 ASSISTANT GENERAL MANAGER, T.I, CYCLES OF INDIA LTD. Vs. PRESIDING OFFICER, LABOUR COURT, MADRAS AND ANOTHER. Again, the learned counsel for the Respondent argued that though the Petitioner contended that the material witnesses were not examined in this case, he has not stated who are all the material witness in this case to prove the guilt against the petitioner and even if his contentions are true, the Respondent/Management in this case his clearly established the charges framed against the Petitioner and even apart from that, the petitioner has also admitted the charges and he only gave certain explanation for doing all these misdeeds. But whether his explanation is accepted or not is not material and in this case, he has stated that due to family circumstances, he has done all these misdeeds. But, on that ground, it cannot be held that he is entitled to do all these things. Further, the learned counsel for Respondent relied on the rulings in 2000 LIC 3136 STATE BANK OF INDIA Vs. THARUN KUMAR BANERJEE, wherein the Supreme Court has reversed the judgement of Division Bench of High Court stating that *"setting aside the finding of misconduct on the ground of non-examination of a customer non-production of money and non-production of confessional statement is of no significance. This, these circumstances are irrelevant and the Tribunal could not have placed reliance on them to interfere with the finding of the misconduct. When sufficient evidence was produced to conclude one way or the other, evidence not produced will not be of any significance, unless there was such evidence which was withheld which would have titled the evidence adduced in the course of domestic enquiry".* In this case, it is clearly established that the petitioner has done a grave misconduct and he has also admitted in the enquiry that he has done all these misdeeds. Under such circumstances, it is futile to contend that the Respondent has not established the guilt against the Petitioner.

12. I find much force in the contention of the learned counsel for the Respondent. Even though it is argued that this Tribunal has got every power to reduce the punishment or mould the relief as claimed by the Petitioner. I find the Respondent/Management has lost faith on the Petitioner/ Workman. Therefore, the suspicion regarding Petitioner's conduct and integrity could not be said to be merely of whimsical or fanciful and therefore, this Tribunal is not exercised its discretion in favour of the Petitioner. As such, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

13. In view of my foregoing findings, I find the Petitioner/Workman Sri R. Venukumar is not entitled to any relief. No Costs.

14. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 20th January, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

On either side : None

Documents Marked :—

For the I Party/Workman :— Nil

For the II Party/Management :—

Ex. No.	Date	Description
M1	18-05-95	Xerox copy of the suspension order.
M2	27-07-95	Xerox copy of the show cause notice.
M3	19-08-98	Xerox copy of the enquiry proceedings.
M4	12-08-99	Xerox copy of the report of Enquiry Officer.
M5	19-09-99	Xerox copy of the show cause notice.
M6	23-10-99	Xerox copy of the notice issued by Disciplinary Authority.
M7	13-11-99	Xerox copy of the order of Disciplinary Authority.
M8	31-12-99	Xerox copy of the appeal preferred by Petitioner.
M9	24-03-2000	Xerox copy of the order of Appellate Authority.

नई दिल्ली, 23 फरवरी, 2004

का. आ. 685.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेन्ट ऑफ पोस्ट ऑफिसेस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, मुंबई के पंचाट (संदर्भ संख्या सी जी आइ टी-3 ऑफ 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-02-2004 को प्राप्त हुआ था।

[सं. एल. 40012/185/2002-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd February, 2004

S. O. 685.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-3 of 2003) of Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sr. Supdt. of Post Offices and their workmen, which was received by the Central Government on 23-02-2004.

[No. L-40012/185/2002-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

PRESENT : Shri Justice S.C. Pandey, Presiding Officer

Reference No. cgit-03/2003

PARTIES :

Employers in relation to the management of Department of Posts

And

Their Workmen

APPEARANCES :

For the Management : Mr. Jadhav

For the Workmen : Workmen presnt

State : Maharashtra

Mumbai, dated , the 6th day of February 2004

AWARD

1. This is a reference under clause (d) of Sub-section 1 and Sub-section 2A of section 10 of the Industrial Disputes Act, (the Act for short) for resolving an industrial dispute between Shri Anil Prabhakar Kulkarni (the workman) and Senior Superintendent Post Offices Division. The terms of the reference are as follows :

> "Whether the action of Sr. Supdt. of Posts Offices, Nasik Divison, Nasik in termination the services of Sh. Anil Prabhakar Kulkarni w.e.f. 26-7-1999 is justified ? If not, to what relief the workman is entitled to?"

2. The workman was present in person on 22/7/2003. Thereafter, the workman remained absent on 03/6/2003, 24/7/2003, 11/8/2003, 16/9/2003 and 6/10/2003. A notice was sent to the workman for his appearance on 6/10/2003 but workman was not present on 6/10/2003. This tribunal proceeded *ex parte* but on 6/11/2003 the next date, the workman appeared. He asked for time ti file his Statement of claim. It was granted. On 3/12/2003 the workman was present. He was given time to file the written statement on 26/12/2003 at Nasik camp where workman resided. The workman was present on 26/12/2003 but he again sought for time. The case was fixed for 14/1/2004. The workman remained absent on 14/1/2004. A notice was sent on 29/1/2004. The workman remained absent.

3. Since the workman remained absent and the opposite party was regularly attending the dates on which the case was fixed at Mumbai and he has not taken any step to file the statment of claim, it appears to this tribunal that the workman is not interested in prosecuting the industiral dispute. It is true that the workman had on 21/3/2003 filed a document which he called the Statement. That document is not a Statement of claim. However, there is grievance that enquiry officer has wrongly held that the charges were proved against him on the basis of evidence on record. There were seven witnesses examined against him. The workman remained *ex parte*. Therefore, the enquiry officer held that the charges are proved. The workman has not filed his statment of claim. He did not appear on the dates fixed. There is nothing on record for this tribunal to hold that findings are perverse or that workman was denied an opportunity of hearing. In fact the conduct of the workman shows that he did not want to contest the reference.

4. In view of the aforesaid this tribunal holds that the workman has not contested the industrial dispute referred to this tribunal consequently by the reference is answered by saying that at present the industrial dispute referred to this tribunal does not exist as the workman did not appear before this tribunal and did not file the Statement of claim though several opportunities were given to him. Accordingly, the reference is answered against the workman and in favour of the Senior Superintendent Post Offices Department of Posts, Nasik Division, Nasik.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 23 फरवरी, 2004

का. आ. 686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 53/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-02-2004 को प्राप्त हुआ था।

[सं. एल. 40012/248/2002-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd February, 2004

S. O. 686.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/2003) of Central Government Industrial Tribunal-cum-Labour Court Chennai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom Deptt. and their workmen, which was received by the Central Government on 23-02-2004.

[No. L-40012/248/2002-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 6th January, 2004

PRESENT : K. Jayaraman, Presiding Officer

INDUSTRIAL DISPUTE NO. 53/2003

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) between the Management of Chennai Telephones, BSNL and their workmen]

BETWEEN

Sri M. George Francis : I Party/Workman

AND

1. The Chief General Manager, Chennai Telephones, BSNL, Chennai. : II Party/Management
2. The Divisional Engineer, Mambalam Division, Chennai.
3. The Sub Divisional Engineer, (Phones) Mambalam External, Chennai.

Appearance :

For the Petitioner : Mr. S.T. Varadarajalu & P. Saravanan, Advocates

For the Management : Mr. G. Jayachandran, ACGSC

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-40012/248/2002-IR (DU) dated 03/07-04-2003 has referred the following dispute to this Tribunal for adjudication :—

> "Whether the punishment of termination from service imposed upon Sri M. George Francis hy the management of Chennai Telephones is legal and justified and if not to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 53/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner joined the services of the Respondent in 1986 as casual labourer in Mambalam Division and he was granted temporary status "mechanic" in 1994. Thus, after serving for more than seven years of temporary status "mechanic" he was selected for Group D post. He was sent for two months training from 25-9-01 to 17-11-01. There he has completed his theoretical training successfully and due to viral fever, he could not attend the training from 1-11-01. He informed the Junior Engineer (Training) in-charge about his illness and he assured him that he would return for training after recovery from illness. He took treatment from Dr. Shariff K. Mohamed and he diagnosed that the Petitioner was suffering from Viral Hepatitis (Jaundice). After recovery, he ohtained medical certificate and fitness certificate from the Doctor and he reported for duty on 4-1-2001. But the Junior Engineer informed that he was discharged from training and he refused to receive the letter and medical certificates from the Petitioner. He also informed the Petitioner that already disciplinary action was initiated against him. Since the Petitioner is taking treatment from his Mother-in-law's house, the letter alleged to have been sent by training centre dated 15-11-2000 was not received by him. The Respondent by letter dated 15-12-2000 proposed to terminate the services of the Petitioner w.e.f. 15-1-2001 and in the annexure to that letter, it was mentioned that the Petitioner has taken leave in the year 1997, 1998 and 1999 and he is a habitual absentee and he has also not completed the Telecom mechanic training and hence he is liable for action. The Petitioner came to know about the order of discharge and also notice of termination only after meeting the Junior Engineer, in charge of telecom training and he immediately went to his residence and ohtained those orders from the house owner. The Petitioner approached the Respondent give him an employment but he was informed that by an order dated 24-1-2001 he was terminated from service. He did not receive any order from the Respondent. He has received impugned order only after issuing the legal notice to the 3rd Respondent and he has preferred an appeal to the 2nd Respondent to set aside the termination order hut the 2nd Respondent dismissed the appeal. Hence the order of termination of the Respondent against the Petitioner is illegal and before retrenching the Petitioner, no retrenchment compensation was paid hence the termination is void ab initio as it is violative of Section 25F of the Industrial Disputes Act, 1947. Even for an argument sake that the Petitioner has not completed the training, he should have been sent back to his original post, but the Respondent with a mala fide intention has terminated the Petitioner from service. Even in the Standing Order Clause 17(d) it is stated that late attendance and habitual absence without leave or sufficient leave is a misconduct and in case of misconduct an enquiry should be conducted for his termination. But in this case, the Petitioner was terminated without holding an enquiry and hence the termination of his service is against the provisions of Standing Order. Principles of natural justice was not followed before terminating the Petitioner from service. Therefore, the termination is illegal, arbitrary and against the judgement of Supreme Court. Even assuming for an argument sake that the Petitioner absented for some days and for that the order of dismissal is too severe and disproportionate to the charge. Hence, the Petitioner prays that the Tribunal should interfere with the punishment imposed on the Petitioner by the Respondent under section 11A of the Industrial Disputes Act, 1947.

4. As against this, the 3rd Respondent filed the Counter Statement which is adopted hy all other Respondents in which it is contended that the Petitioner was deputed for eight weeks theoretical training in the training centre but he was discharged from the training centre by a letter dated 15-11-2000 as he had taken four days leave during the theoretical training and also he did not report for practical training and a notice was sent to his residential address known to the department which was not received hy the Petitioner, since he has changed his residence. The department do not know his Mother-in-

law's address, where he said to have been residing to take treatment. The Petitioner was chronic unauthorized absentee. The Petitioner was continuously assessed and ample opportunities were given to him to correct himself. But even after several warnings, the Petitioner has not mended himself. The Petitioner's absence far exceeded the number of days he was on duty. Hence, the claim itself is not bonafide or true. Even he did not turn up for medical examination which is a pre-condition for regular group D recruitment. The department exhausted all the possible means of correcting the Petitioner and as a last resort issued the order terminating the services of the Petitioner by its order dated 24-1-2001 sent by registered post with acknowledgement card. The said letter was returned as undelivered as 'the person left'. The employee is bound to intimate the employer about his change of address and leave address when he is on leave. The Petitioner has failed to do so and therefore, he can not take advantage of his own failure. The Petitioner was terminated as per the rules and regulations of the Department of Telecom and all the procedures were scrupulously followed before issuing the order of termination. The termination of service was for his misconduct. Therefore, the order of termination dated 24-1-2001 is reasoned, legal and in conformity with the rules and regulations of Telecom Department. Even in the past, in number of times the Petitioner submitted the letters expressing regret for his misconducts. The Petitioner was unable to earn his increment and bonus for lack of attendance since 1997 and this clearly establishes the fact that the Petitioner was a frequent habitual unauthorised absentee on number of occasions during the last four years of service. Therefore, the department has got every right to invoke the disciplinary proceedings against the Petitioner, who did not care to report for duty regularly and also failed to attend the training with devotion. When there is no response from the Petitioner to show cause notice for more than one month, his service was terminated from 24-1-2001 by the Sub Divisional Engineer, Mambalam Division and the appeal filed by the Petitioner before Divisional Engineer, Mambalam Division was also dismissed on merits by an order dated 27-1-2001. Therefore, the contention of the Petitioner that the termination order is punitive and in violation of principles of natural justice and against the constitutional rights is not correct and untenable. Therefore, the Respondent prays that the claim has to be dismissed with costs.

5. The Points for my determination are—

(i) "Whether the punishment of termination from service imposed upon the Petitioner by the Respondent is legal and justified ?"

(ii) "To what relief the Petitioner is entitled ?"

Point No. 1 :

6. In this case, the Petitioner was examined as WW1 and on his side 13 documents were marked and on the side of the Respondent 7 documents were marked and no one was examined as a witness. On behalf of the Petitioner it is contended that the Petitioner joined the service of the Respondent in the year 1986 as a Casual Labour and he was granted temporary status of Mazdoor in the year 1994, after serving more than seven years of temporary status of mazdoor, he was selected for the post of Group D and he was sent for two months training from 25-9-2001 to 17-11-2001 and from 1-11-2001 he was affected by viral fever and he could not attend the training and after informing the same to the Junior Engineer (Training) he had gone to the Doctor for treatment. The Doctor diagnosed that he was suffering from Viral Hepatitis (jaundice). But after recovery from his illness, when he went to join duty, he was informed that he was already discharged from training and the Junior Engineer (Training) refused to receive the letters and medical certificates from the Petitioner.

7. On behalf of the Respondent, it is contended that the Petitioner was a chronic absentee without leave and the Telecom Department after giving all opportunities have taken the severe action against the Petitioner by terminating him from service and the order of termination dated 24-1-2001 is reasonable, legal and in conformity with the rules and regulations of Telecom Department and it was passed only after providing an adequate opportunity to the Petitioner.

8. The Petitioner attacked the order of termination on several grounds. Firstly, it is contended that the Respondent invoked the Standing Order clause 14.3 (3) for initiating disciplinary action against the Petitioner. As per that clause habitual late attendance and habitual absence without leave or without any sufficient cause is a misconduct. Even assuming for an argument sake that the Petitioner was habitual absentee without leave, he should be terminated for the misconduct only on enquiry to be held before termination. But, in this case the Petitioner was terminated without holding any enquiry and no charge has been framed against him and no enquiry was conducted as contemplated under the rules and therefore, he argued that the termination is against the provisions of Standing Order.

9. But, as against this, the Respondent contended that the Petitioner was absented for the training programme and as per the terms and conditions for the training the Sub Divisional Engineer for training programme has discharged the Petitioner from training and he has issued a notice on 15-11-2000 as per Ex. M2 and it was sent to his residential address known to the department which was not received by the Petitioner. The Petitioner even though contended that he gave his Mother-in-law's address to the Junior Engineer, it is only an afterthought and there is no proof to show that he has informed the said address to the Telecom Department. Subsequently, he has not attended the office also. He was a chronic unauthorised absentee and he has not given any reason for the inordinate delay of one month. Therefore, the show cause notice was issued on 15-12-2000 under Ex.M5. Even after that, the Petitioner had not turned up to duty, hence the order of terminating the services of Petitioner dated 24-1-2001 under the original of Ex. M6 sent by Registered post with acknowledgement card. The said letter was also returned undelivered as the 'person left'. Normally, an employee is bound to intimate the employer about the change of his address and the leave address when he was on leave. But in this case, the Petitioner has failed to do so. Therefore, he cannot take advantage of his own failure. In this case, the services of the Petitioner was terminated as per the rules and

regulations of the Department of Telecom and all the procedures were scrupulously followed before issuing the order of termination such as, calling for explanation and issue of show cause notice and finally issue of order of termination and therefore, it cannot be said that the Respondent has not followed the provisions of standing order.

10. But, again the learned counsel for the Petitioner argued even assuming for an argument sake, the Petitioner was a chronic absentee, the Respondent has not followed the procedures laid down under standing orders and no charge has been framed against the Petitioner and no enquiry was conducted as per the provisions of standing order and therefore, it cannot be held that the Respondent has followed the procedures as per the rules and regulations of Department of Telecom.

11. I find force in this contention because even assuming that long absence without leave is a misconduct, the Respondent in this case has not followed the procedure because no document was produced before this Tribunal to show that the enquiry was conducted and the charge has been framed against the Petitioner. Under such circumstances, I find that the alleged order of termination was passed without following the procedures as laid down under law.

12. Again, the learned counsel for the Petitioner argued the Petitioner has served more than 14 years of continuous service. The termination of the Petitioner from service is punitive in nature and was in violation of principles of natural justice. Generally, an opportunity should be given before passing an order of dismissal and without holding an enquiry and without giving an opportunity to the Petitioner, the order of dismissal passed by the Respondent is illegal and arbitrary and against the judgement of the Apex Court and he has relied on the rulings reported in 2001 II LLJ 1388 NAR SINGH PAL Vs. UNION OF INDIA AND OTHERS and 1993 II LLJ 696 D.K. YADAV Vs. JMA INDUSTRIES LTD. In the first case, the Supreme Court has held that *"termination of appellant from service was punitive in nature and having been effected without holding a departmental enquiry was in violation of principles of natural justice and his constitutional rights."* In that case, an order was passed on the basis of preliminary issue and not on the regular departmental enquiry, without issuing a charge sheet or giving an opportunity of hearing to the appellant and therefor the order of termination was not upheld by the Supreme Court. In that case, the Supreme Court has held that *"the order passed by way of punishment was the order of dismissal which having been passed without holding a regular departmental enquiry, it cannot be sustained."* In 1993 II LLJ 696, the Supreme Court has distinguished between the quasi judicial and administrative order. In that case, it was held that *"distinction between quasi-judicial and administrative order has gradually become thin. Now it is totally eclipsed and obliterated. The aim of rule of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules operate in the area not covered by law validly made or expressly excluded."* It is further held that it is a fundamental rule of law that no decision must be taken which will affect the right of any person without first being informed the case or any opportunity being given to him to put forward his or her case. The learned counsel further argued that since no such opportunity was given to the Petitioner, the order of termination is in violation of principles of natural justice.

13. But, as against this, the learned counsel for Respondent argued that only after following the procedures as contemplated under the rules and regulations, the Telecom Department has taken action in this matter. The Petitioner has not informed his Mother-in-law's address or leave address to the department and so the department has issued show-cause notice and also the order of termination only to the address known to the department and therefore, it cannot be held that no procedures have been followed before the order of termination. Further, the Petitioner cannot take advantage of his own mistake and since there is no objection for the show cause notice, the Respondent has taken steps for terminating the services of the Petitioner after going through all the material records and therefore, it cannot be said that the action taken by the Respondent is punitive. But, even assuming that show cause notice has not been served on the Petitioner, the Respondent has not framed any charge against the Petitioner and no enquiry was conducted as per the provisions of Standing Orders, it cannot be held that the orders passed by the Respondent authorities are not under rules and regulations of the department.

14 Again, the learned counsel for the Petitioner argued that the Petitioner is a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 and he has put in more than 240 days of continuous service in a year and hence terminating the services of the Petitioner amounts to retrenchment within the meaning of Section 2(oo) of Industrial Disputes Act and therefore, before retrenching the Petitioner, statutory obligation as contemplated under Section 25F of the Industrial Disputes Act, 1947 has to be followed by the Respondent. But, the Petitioner has not been issued with such notice or paid any retrenchment compensation. Hence, the termination is void ab initio and violative of the provisions of Section 25F of Industrial Disputes Act. He also relied on the rulings 1980 II LLJ 72 SANTOSH GUPTA Vs. STATE BANK OF INDIA and 1996 II LLJ 216 SRIRANGAM CO-OPERATIVE URBAN BANK Vs. PRESIDING OFFICER, LABOUR COURT, MADURAI AND ANOTHER. In the first case, *the Supreme Court has held that "the expression of retrenchment could not be given a narrow interpretation to cover cases of discharge from service on account of surplus-age only. The termination of service for any reason whatsoever now covers every termination of service expect those not expressly included in Section 25F or not expressly provided by other provisions under Section 25FF and 25FFF of the Act."* In 1996 II LLJ 216, the Division Bench of Madras High Court held that *"for the purpose of this case, it is sufficient to point out that the writ Petitioner worked for over two years. Thus, he was in continuous service for more than one year as such he was entitled to the benefit of Section 25F of the Industrial Disputes Act, and the said section does not make any difference whether the appointment has been made in accordance with law or not. The expression used in that section is workman employed in any industry who has*

been in continuous service for not less than one year under an employer, therefore the factum of employment is relevant and not the legality or otherwise of it." The learned counsel for the Petitioner argued that since in this case the termination amounts to retrenchment, since the Respondent has not followed the provisions of Section 25F of the Act, it is void, ab initio and therefore, the Petitioner has to be reinstated in service.

15. As against this, the learned counsel for the Respondent argued that after issuing show cause notice and also after issuing termination notice, only after one month, it has been effected and they have followed the procedures as laid down under the rules and regulations and in this case the termination is for the misconduct. It is not retrenchment as alleged by the Petitioner.

16. But, I find no substance in the contention of the Respondent, since the Respondent/Management has not followed the provisions of law and since the Respondent has not framed any charge against the Petitioner or conducted any enquiry as contemplated under law, it cannot be said that the termination of service of the Petitioner is for his misconduct as alleged by the Respondent. Further, I find in this case the Respondent has to follow the mandatory provisions of Section 25F of the Industrial Disputes Act, therefore, the order of termination is void ab initio.

17. Again, the learned counsel for the Petitioner argued that the even assuming for an argument sake that the Petitioner absented for some days without leave, the order of dismissal for absence is too severe and disproportionate particularly, when no enquiry was conducted by the Respondent and no opportunity was given to the Petitioner to explain the reasons for his absence and under such circumstances, the Tribunal has every right to interfere with he punishment of dismissal imposed on the Respondent under Section 11A of the Industrial Disputes Act, 1947.

18. In view of my finding that the alleged order of termination is void ab initio and no proper enquiry was conducted by the Respondent, I find this Tribunal can interfere with the order of dismissal imposed by the Respondent. Therefore, for all the reasons stated above, I find this point in favour of the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

19. In view of my finding that the impugned order of termination passed by the Respondent against the Petitioner is void ab initio, I find the Petitioner Mr. M. George Francis is to be reinstated in his previous post and I find the Petitioner is also entitled to back wages and other attendant benefits. Ordered accordingly. No costs.

20. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 6th January, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Workman : WW1 Mr. George Francis

For the II Party/Management : None

Documents Marked :

For the I Party/Workman :

Ex. No.	Date	Description
W1	20-09-2000	Xerox copy of the selection order for training Issued to Petitioner
W2	23-09-2000	Xerox copy of the relieving order issued to Petitioner
W3	15-11-2000	Xerox copy of the order of discharge issued to Petitioner
W4	15-12-2000	Xerox copy of the notice of termination issued by 3rd Respondent
W5	24-01-2001	Xerox copy of the dismissal order
W6	27-03-2001	Xerox copy of the order passed by 2nd Respondent
W7	26-06-2001	Xerox copy of the representation given by Petitioner
W8	04-12-2001	Xerox copy of the lawyer's notice sent by Petitioner
W9	19-12-2001	Xerox copy of the reply given by Respondent
W10	Nil	Xerox copy of the pay bill for the month of January, 2000 in respect of Petitioner
W11	Nil	Xerox copy of the standing order Clause 17.
W12	30-12-2000	Xerox copy of the medical and fitness certificates
W13	04-01-2001	Xerox copy of the explanation given by Petitioner.

For the II Party/Management :

Ex. No.	Date	Description
M1	Nil.	Xerox copy of the biodata and service record of Petitioner for 1997, 1998 and 1999 and attendance Register for Jan. 2000 to Jan. 2001.
M2	15-11-2000	Xerox copy of the discharge order issued to Petitioner
M3	20-06-2000	Xerox copy of the warning letters issued to Petitioner
	21-06-2000	
	25-08-2000	
	03-01-2001	

M4	01-09-1999	Xerox copy of the letters submitted by Petitioner for his unauthorised absence
	19-06-2000	
	20-09-2000	
M5	15-12-2000	Xerox copy of the termination order
M6	24-01-2001	Xerox copy of the order issued by Divisional Engineer Mambalam
M7	27-03-2001	Xerox copy of the order of Appellate Authority.

नई दिल्ली, 24 फरवरी, 2004

का. आ. 687.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (संदर्भ संख्या 2/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-02-2004 को प्राप्त हुआ था।

[सं. एल. 17011/13/1999-आई. आर. (बी.-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 24th February, 2004

S. O. 687.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2000) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the Industrial Dispute between the management of Life Insurance Corporation of India and their workmen received by the Central Government on 24-02-2004.

[No. L-17011/13/1999-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 02 of 2000

Parties : Employers in relation to the management of Life Insurance Corporation of India

AND

Their workmen

PRESENT:

MR. JUSTICE HRISHIKESH BANERJI, Presiding Officer

APPEARANCE:

On behalf of management : Mr. A. K. Biswas, Assistant Admn. Officer

On behalf of workmen : Mr. R. N. Das, Vice-President of the All India and B. C. Member of the Divisional Association.

State : West Bengal Industry : Life Insurance

Dated : 13th February, 2004

AWARD

By order No. L-17011/13/99-IR (B-II) dated 23rd. December, 1999 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management LIC Divisional Office Jalpaiguri in denying to pay the exgratia to 36 casual/badli employees (as per attached list) for all the accounting year from the date of their joining is just, fair and reasonable? If not to what relief the workmen concerned are entitled?"

List of workmen

1. Subhio Shankar Hore.
2. Prabin Kumar Sen.
3. Nirapada Mohanta.
4. Gayanta Bhowmik.
5. Debasis Moitra.
6. Ajit Bagchi.
7. Monoranjan Roy.
8. Subash Ch. Das.
9. Subir Dutta.
10. Tapas Acharjee.
11. Pharindra Ch. Dey.
12. Bindu Barman.
13. Krishna Barman.
14. Prem Hari Roy.
15. Nibaran Ch. Das.
16. Abdul Kalam Azad.
17. Shyamal Sarkar.
18. Subhra Saha.
19. Chanden Majumder.
20. Mahendra Mukhis.
21. Amar Nath Sarma.
22. Sanjay Chottri.
23. Utpal Sarkar.
24. Ashoke Sarkar.
25. Ajoy Das.
26. Ratan Roy.
27. Sushil Kr. Saha.
28. Madhab Talapatra.

29. Sukanta Saha.
30. Debasis Sarkar.
31. Ashok Barar.
32. Ganesh Shill.
33. Ajit Kumar Dutta.
34. Kartick Singh.
35. Dibabrata Dutta.
36. Nirmal Hazra.

2. In the present reference the Life Insurance Employees' Association (Association in short) in its statement of claims states as follows :

36 badli employees claim exgratia in lieu of bonus from the Divisional Office, Jalpaiguri of Life Insurance Corporation of India (LICI in short) as it is stated by them that they have been denied payment for several years while working under the LICI It is stated that as per the provisions they should have been paid exgratia in lieu of bonus in the usual way as others have been getting. These 36 badli workmen claim payment of exgratia in lieu of bonus at the rate of 15% of the total wages considering the fact that all of them had worked for more than 30 days in the financial year indicated against each of them in the enclosed chart. It is stated that non-payment of exgratia to the workmen has been unjust and unreasonable.

3. In the written statement the management of LICI has stated that the employees concerned are not badli workmen at all, but they are casual, temporary and daily labourers who got engagement without issuance of any formal appointment letter. It is stated that in the above circumstances, the question of payment of "exgratia in lieu of bonus" does not arise. It is stated that these workmen are not engaged or recruited in terms of LICI Temporary Recruitment Instructions, 1993. The management also denise that the concerned workmen should be paid exgratia in the usual way alongwith others. It is stated that the question of payment of exgratia in lieu of bonus does not arise as they are neither badli workers, nor temporary workers recruited under LICI Temporary Recruitment Instructions, 1993. It is, however, stated that in some cases exgratia had been paid wrongly. As such, recovery efforts were made following which recoveries of wrong payments had to be made in as much as the management could not make such payment in violation of the rules, become they hold people's money in trust. In such circumstances, the management states that the concerned workmen are not entitled to any relief.

4. On behalf of the Association three witnesses have been examined. WW-1, Subrata Chakraborty in his testimony says that exgratia payments were made in their office, but the same was stopped in the year 1998. He states that one of the daily wage earners involved in this reference gets exgratia payments and three other daily wagers who are also covered by a reference in C.G.I.T., Delhi get such payment. Two others, however, working with this workman did not get such payment. In his cross-examination, this witness states that they get wages through payment vouchers, but are not paid on salary sheets like permanent workers; that their payment is on no-work-no-pay basis and that no appointment letter was issued to him. He further states that by virtue of a circular dated 13-10-1999 (Ext. W-3) temporary and badli employees are entitled to exgratia in lieu of bonus. He further states that he received exgratia payment for 4 years.

WW-2, Abul Kalam Azad works in the Chanchol Branch of LICI as a daily waget since 18th March, 1996. He does not get any exgratia payment.

WW-3, Ajoy Das is a daily wage peon of Islampur Branch of LICI from 16-05-1994. He does not get any exgratia payment from LICI. Other workers in his Branch also do not get exgratia payment. In his cross-examination, he says that his payment is on no-work-no-pay basis and that they are not given salary sheets to sign on, as the permanent employees are required to do. This witness further says that he had not received any appointment letter from LICI.

5. On behalf of the management T.N. Bhutia has been examined as MW-1. He has been working in the Administrative Office at Jalpaiguri Divisional Office since June, 2000. He says that in 1998 two of the casual daily wage workers were getting exgratia payments which were wrongly made by the Branch Office. After detection, recoveries were made. He further states that as per circular, Ext. W-3, daily wage earners are not entitled to get exgratia payment and that there is no circular or rule providing for payment of exgratia to daily wagers.

6. Ext. M-5 dated 10-12-1998 relates to the payment in lieu of bonus (ex-gratia) and leave to non C.G.I.T. casual workers. It shows that in some branches payments had been made to some casual workers/coolies in total violation of Central Office Circular Personal/ER No. 3853/ASP/98 dated 23-09-1998. This witness further says that the concerned workers are not working as badli workers.

7. On behalf of the Association it is urged that Ext. W-3 [Circular dated 13-10-1999 issued by the Secretary (ER)] shows that Class-III and Class- IV employees are entitled to payment of ex-gratia in lieu of bonus for the period commencing from April, 1998 and ending with 31st March, 1999. This circular is not applicable to the facts of the present case in as much as the concerned 36 workmen are daily wagers and do not belong to Class-III or Class-IV categories.

8. In view of the above, this Tribunal is of the opinion that the concerned employees are not entitled to ex-gratia payment as referred to in the schedule of reference.

HRISHIKESH BANERJI, Presiding Officer

Dated, Kolkata,
the 13th Feburary, 2004.

नई दिल्ली, 24 फरवरी, 2004

का.आ. 688.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सहारा एअरलाइंस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली-II के पंचाट (संदर्भ संख्या 115/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-02-2004 को प्राप्त हुआ था।

[सं. एल-11012/139/2000-आई.आर.(सी-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 24th February, 2004

S.O. 688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 115/2000) of the Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Sahara Air Lines and their workman, which was received by the Central Government on 20-02-2004

[No. L-11012/139/2000-IR(C-I)]

N. P. KESAVAN, Desk Officer.

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II

NEW DELHI

PRESIDING OFFICER : R.N. RAI

ID NO. 115/2000

Gurmail Singh/Workman

V/s.

Sahara Airlines

Respondent

AWARD

The Ministry of Labour by its order dated 18-10-2000 referred the following point for adjudication "whether the action of the management of M/s Sahara Airlines, New Delhi in terminating the services of Shri Gurmail Singh w.e.f. 20-11-99 is just and legal? If not to what relief is the said workman entitled?"

Both the parties have adduced evidence and filed Memorandum of Settlement. The terms and conditions of the Memorandum of Settlement runs as hereumder :—

Whereas, the above named Shri Gurmail Singh has raised an industrial dispute, which is presently pending adjudication before the Central Govt. Industrial Tribunal, New Delhi and presently proceeding for the management's witnesses.

And whereas, the claimant and the management of the respondent company are agreed to amicably settle this case on the following terms and conditions :

1. That the management shall reinstate the claimant at the previous place of his posting i.e. Guwahati.
2. That the claimant tenders his apology for the misconducts done by him in the past i.e. misbehaviours with his seniors, sleeping on his duty, late reporting, unauthorized absent, using unparliamentary language with his seniors and co-workers, involving in financial irregularities and defiance of the senior's orders.
3. That the claimant undertakes not to indulge in any misconduct as mentioned above and he will discharge his duties sincerely, diligently and honestly in future.
4. That the claimant will not demand for back wages nor any other consequential benefits and he will be entitled for his salary with effect from the date of his joining.
5. That the claimant will join at Guwahati and he will not insist for transfer, however the management shall have the right to transfer him as per service condition mentioned in his confirmation letter dated 30-05-1996.
6. That the parties herein agreed to file this Memorandum before the Central Govt. Industrial Tribunal and take it as the part of the Adjudication Case No. 115/2000 entitled Gurmail Singh Vs. Sahara Airlines Ltd. for further proceedings and any other order or Award.

In witness of the following this Memorandum of Settlement is signed at New Delhi on this 2nd day of December, 2003.

The Memorandum of Settlement has been verified, signatures of both the parties have also been obtained. The parties have adduced evidence in the light of Memorandum of Settlement and they wanted that their case should be disposed of in view of Memorandum of Settlement.

In view of the oral evidence of the parties and the Memorandum of Settlement the workman/Claimant deserves to reinstated at his previous place of posting at the earliest in terms of the Memorandum of Settlement duly signed and verified on 7-01-2004. No dispute award is given accordingly. Let a copy of the award be sent for publication.

R.N. RAI, Presiding Officer.

नई दिल्ली, 24 फरवरी, 2004

का. आ. 689.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयल एण्ड नेचुरल गैस कमीशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलकाता के पंचाट (संदर्भ संख्या नं० 34/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-2-2004 को प्राप्त हुआ था।

[सं. एल-30012/29/96-आई.आर. (सी-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 24th February, 2004

S. O. 689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.34/1997) of the Central Government Industrial Tribunal Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil and Natural Gas Commission and their workmen, which was received by the Central Government on 20-02-2004.

[No. L-30012/29/96-IR(C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Ref. No. No. 34 of 1997

PARTIES : Employer in relation to the management of Oil & Natural Gas Commission

AND

Their workmen

PRESENT :

MR. JUSTICE HARISHIKESH BANERJI, Presiding Officer

APPEARANCE:

On behalf of Management : Mr. S. K. Karmakar, Advocate

On behalf of Workmen : None

State : West Bengal.

Industry : Oil & Natural Gas Commission.

Dated : 11th February, 2004.

AWARD

By order No. L-30012//29/96-IR (C-I) dated 14th August, 1997 the Central Government in exercise of its powers under Section 10 (1) (d) and (2A) of the Industrial Dispute Act, 1947(hereinafter reffered to as the Act for short) referred the following dispute to this Tribunal for adjudication :

"Whether the demand for regularisation of the services of Shri P. K. Das, driver as demanded by the union is legal and justified? If so, to what relief is the workman entitled?"

2. The Union on behalf of the workman, Paban Kumar Das in its written statement stated that the workman was engaged as a casual cotingent motor vehicle driver in the Oil & Natural Gas Commission in the year 1982. He used to drive motor vehicles of the Commission according to the necessity of the management. It is stated by the union that although there were several jobs of driving vehicles in the Commission, the workman was engaged on casual basis without his regularisation by the management of the Commission. The union alleges that the workman was thus deprived of the service benefits as a regular permanent employee. It is alleged by the union that during the period starting from 19-11-1984 to 18-11-1985 he was engaged for performing duties of driving motor vehicles and had completed more than 240 days duty. It is further alleged that page 68 of the Log Book which is lying in the custody of the Commission would show that the workman worked on 02-07-1985 and 03-07-1985 as recorded in the Log Book in respect of vehicle No. WBQ 9290. It is further stated that it has been revealed from the Log Book of the Commission that from 5th November, 1985 to 17th November, 1985 the workman performed his duties for 13 days. He had to attend duty on 18-11-1985 for driving Vehicle No. WMF 1427 as recorded at page No. 56 in the Log Book of the Commission, although the particular date was fixed for a paid holiday when the workman could not be expected to have been on duty. The union has enclosed the details of the holidays on which the workman had to work in chart which has been marked 'A'. The union further states that in respect of the Car Numbers referred to in the chart enclosed with the written statement alongwith the Bonus Register and the Muster Rolls would prove that the workman had attended to his duties for more than 240 days during the period from 19-11-1984 to 18-11-1985. The union also states that the service of one Md. Sarwar, Casual Driver was regularised with effect from the 27-12-1990 and the said fact could be corroborated from the seniority list the employees who had completed 240 days' work in a year of 12 months. It is further alleged that the attendance of the workman was not recorded in the attendance sheet on 12-11-1985 and his signature was found crossed to disprove his attendance. The union states that the workman had completed 240 days' work during the period from 16-11-1993 to 30-06-1994 which would be proved from the following documents, namely, Muster Roll of G. P. No. 17 ONGC (BBG) Calcutta, Log Book of Car No. WB 20/2415, WNF 8698, attendance register of G.P. No. 17 ONGC(Calcutta), Bonus Retgister all under the custody of the management. Therefrom, it is stated that the concerned workman was entitled to 14 days compensatory holidays at the rate of 1 day per holiday for each 8 hours overtime work for working 115 days and 35 minutes in the session

1993-94 according to the practice of the Commission. Annexure 'B' is the chart annexed to the written statement of the union showing such overtime duty alleged to have been performed by the concerned workman. It is stated that inspite of protests against the action of the management, the Commission did not regularise the service of the concerned workman since the year 1982. By letters of the union dated 12-02-1988 and 24-08-1991 addressed to the Regional Director of the Commission, the grievances of the workman were raised before the management of the Commission clarifying the whole position with facts and figures. The workman raised the dispute before the Regional Labour Commissioner by his letters dated 01-07-1994 and 22-07-1994 and the union placed the grievance before the Assistant Labour Comissioner (Central), Calcutta alleging that the workman concerned was entitled to the outstanding remuneration on account of his performing duties during the extra hours from 19-11-1984 to 18-11-1985 and 16-11-1993 to 30-06-1994. The union states that for such work in the Commission the workman had completed more than 240 days' work in the two spells during the above period. The union further alleges that in the field season 1994-95, 7 days' compensatory off was granted to the workman for his extra duty during the field season. The workman also got benefit of provident Fund deduction in the year 1988 although it was subsequently stopped without any reason. It is further stated that duty was allotted to the workman concerned on holidays and no weekly leave was granted during the period from 18-11-1985 to 30-11-1985. It is alleged that the concerned workman was very much required by the commisssion in their day-today work of right from his engagement in the year 1982. The work of contingent driver, it is alleged, is perennial and permanent in nature. It is further alleged that workman concerned on some occasions were offered the work just below 240 days in a year to evade the statutory compulsion of regularisation in service. It is also alleged by the union that the workman has been wrongly deprived of his regularisation in the service, although he had completed 240 days' continuous work in 365 days. The union, in the above circumstances prays for passing an Award holding that the demand of Shri P. K. Das for regularisation in service of the commission is justified and he is also entitled to the consequential benefits.

3. The management in its written statement submits that the reference is not maintainable as the issue reffered to is beyond the scope of Second and Third Schedules of the 1947 Act and it suffers from infirmity of non-application of mind being based on incorrect assumption. The management submits that there does not arise any question of automatic regularisation of a contingent employee in permanent roll of the Commission as the regularisation of a contingent employee in permanent roll of the Commission as the regularisation of a contingent employee even after fulfilment of terms and conditions cannot be automatic. It is denied by the management that the workman has been kept on casual basis and with a view to depriving him of getting the service remedies as a regular permanent employee. It is stated that there has been no scope for assessing the efficiency, seniority and responsibility of Shri P.K. Das since he was deployed as a casual employee, particularly for the field season which normally starts from the middle of November and ends in June of the following year. The management calls upon the union to establish that the workman had completed 240 days' duty in any period of 12 consecutive months and possessed the minimum qualification as required in considering the case for conversion to a regular employee. The management also calls upon the union to establish (i) by production of relevant documents the number of days worked by the concerned workman; (ii) how the concerned workman is similarly placed and situated with the regular driver; (iii) how the qualification and experience of the concerned workman in same and similar with that of the drivers who are absorbed as regular drivers and (iv) how the concerned workman is to be absorbed as a regular driver without being enlisted in the seniority list and without overcoming and by passing the names which are hanging in the seniority list from before. It is further stated that there is hardly any scope for the management to absorb any employee in the regular cadre in the absence of any vacancy that the regular drivers are always permanently absorbed and no analogy on that score can be drawn. It is further alleged that the case of Md. Sarwar is not applicable to the case of the concerned workman. Furthermore, it is stated that mere completion of 240 days ' work in a celander year does not entitle the concerned workman to be enlisted as a regular employee without being enlisted in the seniority list. Such regularisation will be effected as and when his turn would come.

The union's contention that there was completion of 240 days work in the field season during the period from 16-11-1993 to 30-06-1994 is manifestly absurd as during the said period the total number of working days was below 240 days. The accumulation of the period of overtime work, it is stated, can never make a "Single day" with 8 hours of a work and that there is no basis to interpret the overtime work taking into consideration the paid holidays and/or compensatory holidays. It is denied that the work of a contingent driver is perennial and permanent in nature. Other material allegations in the written statement filed by the union have been denied by the management. On behalf of the management it is further submitted that the issue under reference is not maitainable and that the workman is not entitled to any relief as claimed. Hence the prayer for and Award dismissing the claim of the union.

4. The point to be decided in the present reference is whether the workman is fit for empanelment for regularisation. The union on behalf of the workman has produced 13 certificates [Exts. W-1 to W-2(k)] issued to the workman by the management of O.N.G.C. showing the work performend by him during his employment under the management, but none of the documents produced by the union shows that the workman had worked for 240 days within a period of 12 clalender months. In that view of the matter it cannot be said that the workman is entitled to

automatic regularisation as a contingent employee under the management.

5. On behalf of the union no witness has been examined in the present proceeding. On behalf of the management MW-1, R.S. Pandey deposed that there is no scope for promotion of a contingent employee from unskilled to skilled rank. He further deposed that the job of a contingent driver could not be equated with the job of a permanent driver. This witness further deposed that as a contingent workman his claim for empanelment for regularisation could not be met as he had not completed work for 240 days in any season during which he had been engaged. This MW-1 was not cross-examined by the union.

6. In view of the unrebutted testimony of the witness for the management and considering the evidence as discussed above, this Tribunal is of the opinion that the demand of the union is not acceptable and the concerned workman is not entitled to any relief as prayed for.

HRISHIKESH BANERJI, Presiding Officer

Dated, Kolkota,
The 11th February, 2004.

नई दिल्ली, 25 फरवरी, 2004

का. आ. 690.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एन.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, पुणे के पंचाट (संदर्भ संख्या 46/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-2-2004 को प्राप्त हुआ था।

[सं. एल-42012/33/2001-आई.आर. (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 25th February, 2004

S. O. 690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2001) of the Industrial Tribunal Pune (Maharashtra) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Chemical Laboratory and their workmen, which was received by the Central Government on 24-02-2004.

[No. L-42012/33/2001-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE SHRI J. L. DESHPANDE : INDUSTRIAL TRIBUNAL, PUNE

Reference (IT) No. 46 of 2001

BETWEEN:

The Director,
National Chemical
Laboratory,
Pashan,
Pune (Maharashtra)
PUNE-411008 .....First Party

AND

Their workman .....Second Party

In the matter of : Adjudication of the dispute over the demand of the second party for regularisation of Shri Kishor S. Suryavanshi and 15 others (as per annexure attached).

CORAM : J. L. Deshpande, Industrial Tribunal, Pune.

APPEARANCE : Shri N. A. Kulkarni, Advocate for the second party workman.

Shri K. P. Anilkumar, Advocate for the first party Management.

AWARD

15th November, 2003

1. This is a Reference made by the Central Government, under Section 10 (1) (d) and Section 10(2-A) of the Industrial Dispute Act, 1947, to adjudicate the dispute over the demands made by the second party workmen, relating to their regularisation, in the employment of the first pary- National Chemical Laboratory, Pashan, Pune.

2. The first party National Chemical Laboratory, (hereinafter referred to as the NCL) is one of the 42 units of the Council of Scientific and Industrial-Research, New Delhi. The Council of Scientific and Industrial Research (hereinafter referred to as the CSIR) is an automomous organization and its major objectives are to conduct the research and development projects of the national priority, which are sponsored by the Industries in the Public/Private Sector. CSIR, through its Units, undertakes the research and development to bring about the continuous improvement of indigeneous technology. NCL, Pashan, Pune, is one of the Unit of CSIR. Like the other Laboratories, it is also engaged in the Scientific and Industrial activities. According to the second party workmen, it undertakes systematic activities organized by the Cooperation between the employer and the employees for the production or the distribution of the services, calculated to satisfy the human wants and wishes. According to the second party workmen, NCL is "industry" within the meaning of Section 2 (j) of the Industrial Disputes Act, 1947.

3. It is the case of the second party workmen that they have been working with the NCL for different periods, ranging from 7 to 16 years. They have worked in various categories like Junior Technical Assistants, Junior Scientific Assistants, Senior Scientific Assistants, Junior Laboratory Assistant and Photography Assistants, etc., All the 16 workmen have thus, completed more than 240 days continuous service with the N.C.L. they have been given the appointments, from time to time and the appointments are extended and thus, the second party workmen have put in continuous service with the N.C.L. They have worked in the different research projects, undertaken by the N.C.L. The Administrative Officer of the N.C.L. had issued the

orders, from time to time, to appoint the second party workmen, to engage them for the project. They have been given appropriate pay scale like the permanent employees and, they have been also awarded with the annual increments. The work undertaken by the second party workmen is of continuous and perennial nature. N.C.L accepts the different projects as the integral part of its activities and thus, the work is of perennial and continuous nature. According to the second party workmen, they have put in continuous service with the N.C.L. under the different projects. However, the first party N.C.L did not issue the order, to make them permanent.

4. It is the case of the second party workmen that they have filed the Writ Petition before the Hon'ble Bombay High Court, but withdrew the same with the impression that the question of giving of the permanency could be agitated before the appropriate forum. According to them, they had filed the application before the Central Administrative Tribunal. However, their application was disposed of by the Central Administrative Tribunal (CAT) on the ground that it has on jurisdiction to grant the relief of the permanency and it does not fall within the purview of the CAT. The second party workmen then raised their demand before the Commissioner of Labour (Central) and the Labour Commissioner found that there was no possibility of the settlement during the course of the conciliation. This is how the dispute over the demand of the regularization has been referred to this Tribunal, for adjudication.

5. On receipt of the Reference, notices were issued to the parties. The second party filed their Statement of claim at Exh. M-3. The second party workmen reiterated their contentions in the statement of claim.

6. The first party N.C.L. filed its written-statement at Exh. C-1. According to the N.C.L., it is a part of the C.S.I.R. and the service conditions of the employees of the N.C.L/ C.S.I.R. are governed by the provisions of the Civil Services Rules. The employment in the N.C.L. is given on following the recruitment rules, as applicable to the C.S.I.R. There is selection procedure, stipulated to fill in the vacancies available in the N.C.L./C.S.I.R. The second party workmen are not entitled to the regularisation and the appointment to any of the post in the N.C.L. merely because they have put in continuous service with the N.C.L. under the project, sponsored by some agency.

7. It is the case of the N.C.L. that N.C.L. is one of the Constituent to C.S.I.R. which is the autonomous body registered under the Societies' Registration Act, 1860. N.C.L. is basically engaged in Research and Development of the chemical sciefice with a purpose to reach the benefits of the programmes of the chemical science to the people. Thus, according to the N.C.L., it is not an "industry" within the meaning of Section 2(j) of the Industrial Disputes Act, 1947, and this Tribunal has no jurisdiction to adjudicate the dispute.

8. It is further the case of the first party N.C.L. that the second party workmen were engaged on the contractual terms for the work on Government funded projects, sponsored by the Department of the Bio-Technology (referred to as the D.B.T.), tenable at N.C.L. The second party employees were not the direct employees of the N.C.L., but engaged for and on behalf of the sponsorer for the limited period of time, purely on the temporary basis. This fact was explained in the appointment order, issued in favour of each of the employee and they were aware of the conditions incorporated in the appointment orders, while accepting the assignments. It was also made clear that they would not be entitled to any post at the N.C.L., C.S.I.R. since it was not the appointment at the N.C.L./ C.S.I.R. Sponsoring Authority, however, went on continuing the project, from time to time and also provided funds for the salaries and the other expenses. Accordingly, the N.C.L. has given the extension to the second party workmen and the duration of the project was to expire on 31st March, 2002. According to the first party N.C.L. the continuation of the contractual service of the second party depends upon the continuation of the project and the availability of the funds, provided by the sponsoring authority D.B.T.

9. At no time, according to the N.C.L. there was privity of the contract of the employment between the N.C.L. on the one hand and the employees, mentioned in the Reference, on the other. According to N.C.L. the services of these employees would be discontinued by the efflux of time on completion of the project.

10. N.C.L. admits that the second party employees were given the pay-scales and the increments, but according to the N.C.L. this was done in consultation with the sponsoring authority and with the help of the funds made available by the said authority. However, it has no concerned whatsoever, with the grant of the permanency to these employees and giving of any appointment at N.C.L./ C.S.I.R.

11. On the basis on the pleadings of the parties, the following issues came to be framed at Exh. C-1. The issues, with their findings, for the reasons given thereof, are as follows :—

1.	Whether the First Party N.C.L. is an 'industry'?	Yes
2.	Whether the members of the second party are the employees of the First Party N.C.L.?	No
3.	Whether the second party workmen are entitled to regularisation and their demand is legal and justifiable?	No
4.	What Award ?	The demand of regularisation is rejected.

REASONS

Issue No. 1:

12. It is an admitted fact that the N.C.L. is one of the unit of the C.S.I.R. The list of the C.S.I.R. units is furnished at page No. 4 to 6 of the Memorandum of the Association, produced at Exh. C-18. It also contents the Rules and the Regulations and the Byelaws. It is an admitted position that the C.S.I.R. came to be registered in the year 1942, under the Societies' Registration Act, 1860. There are 43 Units of the C.S.I.R. and the N.C.L. Pune is one of them. It is an admitted position that the second party workmen were engaged by the N.C.L. under the different projects, which were accepted by the N.C.L. However, there is serious dispute about the fact that it could be termed as 'industry' within the meaning of Section 2(J) of the Industrial Disputes Act, 1947.

13. In order to get the answer of this vexed question, it is first necessary to refer to the definition of 'industry' as given in Section 2(j) of the Industrial Disputes Act, 1947. It reads as follows :—

> "Industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or a vocation of workman".

14. As the wording of the definition shows, it is of wide amplitude and includes the different activities.

15. As pointed out above, the C.S.I.R. is an autonomous body, funded by the Central Government, having emenient Scientists, and Academicians, on its body and council. It is engaged in the research or chemical science and according to the witness examined by the N.C.L. the solitary purpose of the different activities undertaken by the C.S.I.R. is to assist the programmed objective of the Government of India, *viz.* reaching the benefits of the chemical science to the people of the country. It is claimed that it is engaged in pure and simple scientific research and the result of its research are being used for the benefit of the people at large. According to the first party, N.C.L. whatever activities are undertaken by the N.C.L. in the sphere of the research are part of the major activity of a State and thus, it is a sovereign function. It is claimed that though the N.C.L. accepts the projects from the other Institutes/industries, it is not its main activity, but the research in chemical science is its main activity. So far as the second Party workmen are concerned, the N.C.L. through its Section Officer Shri Krishnarao Ganesh Joshi, (CW-1), has taken the stand that they were engaged since the extra human power was required for the project and thus, the second party employees were engaged purely on the temporary basis to extract their services to complete the project, undertaken by the N.C.L.

16. In order to understand the real nature of the activity, undertaken by the N.C.L. it is necessary to refer to the objects, with which the C.S.I.R, its parent body, was established. In the Memorandum of Association (Exh. C-18), at page No. 8, there is list of the objects, for which the C.S.I.R is established. They are :—

> "The objects for which the council of Scientific and industrial research is established are :—
>
> (a) To implement and give effect to the resolution moved by the Hon'ble Dewan Bahadur Sir A. Ramaswamy Mudliar, Hon'ble Member of the Department of Commerce of the Government of India and passed by the Legislative Assembly on the 14th November, 1941 and accepted by the Government of India, the full text whereof is as follows :—
>
> > "This Assembly recommends to the Governor General in Council that a fund called the Industrial Research Fund be constituted or the purpose of fostering industrial development in this country and that provision be made in the Budget for an annual grant of Rs. Ten lakhs to the fund for a period of the five years."
>
> (b) The objective of the Council being scientific and industrial /applied research of national importance, its major activities should be :—
>
> (i) research and development projects of national priority as envolved by the high level body concerned with overall planning for science and technology in the country;
>
> (ii) research and development projects sponsored by the industries in the public/ private sector and others and in consonance with national priorities;
>
> (iii) research and development directed towards continuous improvement of indigenous technology and adaptation and development of imported technology;
>
> (iv) research and development of new technologies relevant to the country's social, economic and industrial needs in keeping with the national objectives of the self-reliance;
>
> (v) research and development on appropriate and alternate technologies, with emphasis on the use of the local resources;
>
> (vi) basic scientific research that is necessary and industrial/applied research and development in progress and from the view point of future, advances in technology in consonance with the national priorities;

(vii) maintenance of the national physical standards and a library of standard reference materials; and

(viii) technical advisory services like information, extension consultancy and testing.

(c) The establishment or development and assistance to special institutions or departments of existing institutions for scientific study of problems affecting particular industries and trade;

(d) the establishment and award of the research fellowship and institution and financing of the specific researches;

(e) The utilization of the results of the researches conducted under the auspices of the Council towards the development of industries in the country and the payment of a share of royalties arising out of the development of the result of the researches, to those who are concerned as having contributed towards pursuit of such research;

(f) the establishment, maintenance and the management of the laboratory, workshops, institutes, museums including mobile muesums and organisation to the further scientific and industrial/ applied research and development and to utilise and expoint for purposes of expriment or otherwise any discovery or invention likely to be of use to Indian industries;

(g) the collection and dissemination of information in regard not only to research and development but to the industrial matter generally;

(h) publication of scientific papers and general devoted to scientific and industrial / applied research and development;

(hh) to enter into arrangements with foreign scientific agencies and institutions for exchange of the scientists, study tours, training, in spcialised areas of science and technoeogy, conducting joint projects, providing technical assistance in the establishments of the scientific institutions and for other matters, consistent with the aims and objectives of the societies :

(i) for the purpose of the Society to draw and accept and make an endorse discount and negotiate Government of India and other promissory notes, bills of exchange, cheques or other negotiable instruments;

(ii) to borrow and raise moneys with or without security or on the security of a mortgage, charge or on the security of hypothecation or pledge of all or any of the moveable or immoveable properties belonging to the Society or in any other manner, whatsoever.

(j) to invest the funds of, or money entrusted to, the Society upon such securities or in such manner as may, from time to time be determined by the Governing body and from time to time sell or transpose such investment.

(k) to purchase, take on lease, accept as a gift or otherwise acquire, any land or building wherever situated in India which may be necessary or convenient for the Society;

(l) to construct or alter any building which may be necessary for the Society;

(m) to sell, assign, mortgage, lease, exchange and otherwise, transfer or dispose of all or any property, moveable or immoveable, of the Society for the furtherance of the objects of the Society.

(n) to establish and maintain a research reference library in pursuance of the objects of the Society with reading and writing rooms and to furnish the same with books, reviews, magazines, newspapers and other publications;

(o) to appoint, or employ, temporarily or permanently, any person and persons and to pay them, or other persons, for services rendered to the Society such salaries, wages, gratuites, provident-funds and pensions, and to introduce and implement welfare schemes, including but not limited to superannuation or housing scheme for the benefits of such persons, as the Society may in this determine; and

(p) to do all other such things as the Society may consider necessary, incidental or conducive to the attainment of the above subjects.

17. As pointed out above, there is council to monitor its function of C.S.I.R. having its head office at New Delhi. It will be useful to notice all the functions of the council. they are :—

3. The functions of the Council will be :—

(a) To implement and to give effect to the following resolutions moved by the Hon'ble Dewan Bahadur Sir A.R. Mudaliar and passed by the Legislative assembly on the 14th November, 1941 and accepted by the Government of India :—

"This assembly recommends to the Governor General in Council that a fund called the Industrial Research Fund be constituted, for the purpose of fostering industrial development in this Country and that provision be made in the budged for an annual grant of rupees ten lakhs to the funds for the period of five years."

(b) the promotion, guidance and coordination of scientific and industrial research in India.

including the institution and the financing of the specific researchers;

(c) the establishment or development and assistance to the special institutions or departments of existing institutions for scientific study or problems affecting particular industries and trade;

(d) the establishment and award of the research studentships and fellow-ships;

(e) the utilization of the research or the researchers conducted under the auspices of the Council towards the development of the industries in the country and the payment of the share of royalties arising out of the developments of the results of researches to those who are considered as having contributed towards the pursuits of such researches;

(f) the establishment, maintenance and management of the laboratories, workshops, institutes and organizations to further scientific and industrial research and utilise and exploit for purposes of the experiment or otherwise any discovery or invention likely to be of use to Indian Industries;

(g) the collection and dissemination of information in regard not only to research but to industrial matters generally;

(h) publication of scientific papers and a journal of industrial research and development; and

(i) any other activities to promote generally the objects of the resolution mentioned in (a) above.

18. The above stated objects of the C.S.I.R. which are to be achieved through the activities of its different units and the functions of the council would help in understanding the nature of the activities undertaken by the N.C.L. which is one of the unit of the C.S.I.R. There is mass of case law, having bearing on the subject and certain tests have been volved to find out whether the activity of a particular institute falls within the sphere of 'industry' or not. The discussion on this subject will not be complete without the reference to the often quoted decision in the case of Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and others, (A.I.R. 1978, page 548). In the context of the research Institute, Hon'ble Supreme Court has made the following observations in paragraphs Nos. 135 of the reported Judgement under the Caption "research".

Research :

"Does, research involve collaboration between employer and employees ? It does. The employer is the institution, the employees are the Scientists, para-scientists, and other personnel. Is scientific research service? Undoubtedly, it is. Its discoveries are valuable contributions to the wealth of the nation. Such discoveries may be sold for a heavy price in the industrial or other markets. Technology has to be paid for and technological inventions and innovation may be patented and sold. In our scientific and technological age nothing has more cash value, as intangible goods and invaluable services, then discoveries. For instance, the discoveries of Thomasalva Edition made him fabulously rich. It has been said that his brain had the highest cash value in history for he made the world vibrate with the miraculous discovery of recorded sound. Unlike most inventors, he did not have to wait to get his reward in heaven, he received it munificently on this gratified and grateful earth, thanks to conversion of his invention into money aplenty. Research benefits industry, even though a research institute, may be a separate entity disconnected from the many industries which funded the institute itself, it can be regarded as an organisation propelled by systematic activity, modelled on cooperation between employer and employee and calculated to throw up discoveries and inventions and useful solutions which benefit individual industries and the nation in terms of the goods and services and wealth. It follows that the research institutes, albeit run without profit motive, are industries."

19. On making reference to different activities, such as research, clubs, hospitals, charitable institutes and cooperatives and on taking note of different precedents, the Honourable Supreme Court in paragraph No. 161 formulated certain tests which are popularly known triple tests. They are :—

Paragraph No. 161, Clause No. (a) Triple tests :

(a) Where (i) systematic activity (ii) organised by cooperation between employer and employee (the direct and substantial element is chimerical) (iii) for the production and/or distributions of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss i.e. making on a large scale Prasad or food) prima-facie; there is an industry in that enterprise."

20. In the process, Supreme Court also made it clear that the absence of the profit motive or the gainful object is irrelevant, the true focus is the functional and decisive test is the nature of the activity with special emphasis on the employer-employees relations. Further, in para 161 of the reported Judgement, Supreme Court laid down the dominant test and in the context of the sovereign functions. observed that the sovereign functions, strictly understood. (alone) call for exemption, no welfare activities or the activity adventure undertaken by the Government or statutory bodies. It was further observed that even in the Departments discharging the sovereign function, if there are units, which are industries, they are substantially severable, then they can be considered to fall within Section 2(j) of the Industrial Disputes Act., 1947.

21. As it happens in several other cases, in this case also, the first party Institute has tried to take the shelter of

the concept of the 'sovereign function'. I have already adverted to the observations of the Hon'ble Supreme Court, which appear in the Bangalore water supply case, referred (supra). The sphere of this concept and its limitation could be well understood with the following observations of the Hon'ble Supreme Court, which appear in paragraph No. 18 of the reported Judgment. There it is observed.

Para No. 18 of the Reported Judgment

"I would also like to make a few observations about the so-called "sovereign" functions which have been placed outside the field of industry. I do not feel happy about the use of the term "sovereign" here. I think that the term "sovereign" should be reserved technically and more correctly for the sphere of ultimate decisions. Sovereignity operates on a sovereign plane of its own as I suggested in Keshavananda Bharati's case, AIR 1973 SC 1461, supported by a quotation from Ernest Barker's "Social and Political Theory". Again, the term "Regal" from which the term "Sovereign" functions appears to be derived, seems to be a misfit in a republic where the citizen shares the political sovereignity in which he has even a legal share. However, small, in as much as he exercises he right to vote. What is meant by the use of the term "sovereign", in relation to the activities of the State, is more accurately brought out by using the term "governmental" function although there are difficulties here also in as much as the Government has entered largly new fields of industry. Therefore, only those services, which are governed by separate rules and the constitutional provisions, such as Articles 310 and 311 should, strictly speaking, be excluded from the sphere of industry by necessary implication."

22. The objects with which the C.S.I.R. came to be established are already reproduced in the above part of the Judgement and they will have to be scanned properly to find out whether the activities undertaken by the N.C.L. fall within the sphere of 'industry' or the sovereign functions. It is seen from the objects that the major activity of the C.S.I.R is to undertake research and development projects, sponsored by the Industries in the public/private sector. The ultimate object of undertaking research and development project is to develop new technology which relates to the country's social, economical and industrial needs. I have already adverted to the functions of the council of the C.S.I.R. The results of the research undertaken by the units of the C.S.I.R. are linked to the development of the industries, in the country. This is well articulated from Clause (f) of the functions of the Council, which lays down that the laboratories, workshops, institutes and the organizations shall undertake research in the areas of science and industry and to utilise and exploit them for the purpose of the experiment or otherwise. This entire exercise is undertaken with the object to give boost to the Indian industries and ultimately to enhance the quality of life. Thus, the Government has established this Unit to discharge its obligation, postulated by the directive principles of the State Policy, enshrined in Part IV of the Constitution. In fact, in the present case, the officer of the N.C.L. (CW-1) admitted that as a collaborative project N.C.L. undertakes research from private institutes and legal bodies. It undertakes the projects from various Departments of the Central as well as the State Government. He further admitted that the N.C.L. receives certain funds on costs basis from the institutes whose project is undertaken. There is separate Department in the N.C.L. for the costs and estimate, which is research, planning and the business development—R.P.B.D. According to the estimate, as evolved by this Department, the funds are received from the sponsorer or the collaborative agency. The witness admitted that there is no concept of the profit, but there is concept of surplus. He has to admit that the sponsorer finances the projects and N.C.L. accept the same for the research with the aim to increase the quality and the growth of that particular product. The ultimate object of the activity of the research and analysis undertaken by the N.C.L. is to satisfy the human wants, which is one of the cardinal test amongsts the triple tests laid down by the Hon'ble Supreme Court.

23. In the written notes of the arguments, learned advocate for the first party N.C.L. has argued that the N.C.L. is engaged in the chemical science research activities of national importance and in furtherance of that, it continues self inhouse research. It is further argued that the research done by the N.C.L. is for the Government and the same relates to the sovereign functions of the Government i.e. Public Health. It is further argued in the written notes of the arguments in Clause V(d) that the result of the invention by the N.C.L. is not directly for the public though, it is made indirectly to the public. This is contrary to the averments in the written statement and at page No. 3 of the written statement (both portions), it is averred that the N.C.L. is basically engaged in the research and development of the chemical science for the purpose to reach the benefits of the programmes of the chemical science to the people. In the Memorandum of Association of C.S.I.R. (Exh. C-18) page No. 8, there is reference to major activities of the C.S.I.R. units to achieve its objectives and one of the activity is to undertake the research and development projects sponsored by the industries public/private sector and this is in consonance with the national priorities. The N.C.L. Officer Krishnarao Ganesh Joshi (CW-1) admitted that one of the activity of the N.C.L. is to conduct the research through the projects accepted from the Central as well as the State Government. He further stated that as a collaboration project, the N.C.L. undertakes the research from the private institutes and the local bodies. This shows that the N.C.L. undertakes research into the projects sponsored not only by the Central or the State Government, but the Private Institutes and the local bodies also. It has come on the record that the N.C.L. had accepted Nabard project. Thus, its activity is not strictly restricted to undertake the research through the projects assigned by the Government only but the sphere of its activities is wide which includes the private institutes and the local bodies also.

24. The ultimate object of this research is to enhance the quality and growth of the products. This is admitted by

Mr. Joshi. He further admitted that the N.C.L. undertakes various projects for the research in bananas, potatos, tea, etc. One of the objective of the N.C.L. is to undertake the research and development directed towards the continuous improvement of the indigenous technology and adaptation and development of importated technology. The research is aimed at development of the new technology, relating to the country's social, economic and the industrial needs in keeping with the national objections of the self reliance as laid down in Clause 2(b) (iii) and (iv) of the Memorandum of Association.

25. There is council consisting of the members from diverse field having talent/positions of higher order in their fields and one of the function of the council is utilisation of the results of the research conducted by the council towards the development of the Industries, in the country. In fact, the preamble statement of the functions of the council which appear in Clause No. 3 of the Memorandum of Association, printed page No. 3 of Exh. C-18, shows that one of the objective for constituting the institute was to foster industrial development in this country. The council is expected to make publication of the Scientific papers and the tenure of the industrial research development. Thus, the entire activity of the C.S.I.R. is aimed at bringing about the qualitative as well as the quantitative growth in the products. The research of the products, through various projects, is undertaken to achieve this object. No doubt, it is true that there is no activity of production or the manufacture of any particular product at the N.C.L. but the ultimate object of the activities is to bring about the collective and quantative improvement in the product. Thus, the object of the entire activities undertaken by the N.C.L. is to satisfy the human wants/needs.

26. Apart from that, in Bangalore Water Supply's case, (referred supra), Para No. 135 the Hon'ble Supreme Court has held that the research institutes, albeit run without profit motive, are industries. As pointed out above, the absence of the profit motive is irrelevant. What is relevant is the triple test evolved by the Supreme Court in paragraph No. 161 of the reported Judgement.

27. Reverting to the present matter, UW-1, Deepak Pillay was engaged as the Project Assistant/Junior Technical Assistant in D.B.T. Project. The said project was sponsored by the Department of the Bio-technology, Central Government of India, for the establishment of the Pilot Plant, production of the building material or using bamboos, teak-wood, catalysts etc. He has also worked in the Nabed Project. He resigned from the Nabad project and joined the D.B.T. Project. UW-2 Kishore Suryawanshi was engaged in the Nabad Project, as Lab. Technician. He worked under the different projects from 1991 to 2000. Mrs. Vaishali Chavan, (UW-3) was senior Scientific Assistant and she also worked in D.B.T. project. All these witnesses have stated that their work was supervised by the officers of the N.C.L. and not by the sponsoring authority. The Memos or the notices were issued by the officers at N.C.L. They have named the officers by the N.C.L., who used to supervise their work as the Project Incharge. Thus, the temporary employees (second party) were engaged, though temporarily, by the N.C.L. under the orders, issued at the hands of the officers of the N.C.L. and the work of the temporary employees was supervised by the officers of the N.C.L. They were given the pay-scale and the increments like the regular employees. It is admitted by the officer of the N.C.L. (CW-1) that there are about 1000 regular employees at the N.C.L. This shows that there was systematic activity going-on at the N.C.L. and thus, the second party workmen were part of the said activities. That activity was undertaken by the N.C.L. with the cooperation of these employees, besides the regular employees. Thus, it was joint venture. As high lighted above, the object of the project was to conduct the research to bring about the development in that object, which was the subject-matter of the project. This being the position, I am not inclined to accept the contention that the N.C.L. was performing the sovereign functions. It is not that the activity undertaken by the research Institute through its employees could be undertaken by the Government only. If established and properly manned and managed, even private institute could have undertaken that venture. Merely because the research Institute get the financial support/funds from the Government, it does not become sovereign function. If such interpretation is accepted, then it would be contrary to the spirit of the authoritative pronouncement of the Supreme Court in the Bangalore Water Supply case. To call this activity as a sovereign would be to give too liberal and wide meaning to the term sovereign function and it would run contrary to note of caution given by the Supreme Court, while employing the expression sovereign function, which aspect of the matter, I have already adverted to.

28. It appears from the record that the N.C.L. gets the funds not only from the Central Government being part of the C.S.I.R. but it also receives the funds from the outside. On the basis of application for the production of the documents and in pursuance of the order passed by this Court, N.C.L. has produced the statement of the account (Exh. C-8) for the year 2001-2002. On going through the entries at page No. 6, of the receipt/payment Account, for the year 2001-2002, it is seen that for that financial year, the N.C.L. received Rs. 3,00,000.00 from the Central Government, Rs. 80,32,831.00 from the Foreign Government/Agencies and Rs. 3,01,20,077.00 from the Private Agencies. I have gone through the entries at page No. 2 of the receipts and the payment accounts. It appears from the entries that the N.C.L. received Rs. 31,34,563.00 towards the Royalty and Premia, Rs. 9473790.00 towards the Consultancy fees and Rs. 1,25,38,303.00 towards the sponsord project fee. At page No. 5 of the receipts and payments account, there is entry, which shows that the N.C.L. received a sum of Rs. 20,36,000.00 from the Industries. It was total Royalty and the Premium for distribution. It receives huge amount towards the deposits for outside projects. Microscopic scanning of the receipts and account statement is not possible and it is also not expected from this Tribunal, particularly in the context of

the present dispute, but suffices it to say that the entries at page No. 10 of the Statement of the Account for the year—2001-2002, reveals that the N.C.L. had excess of the income over the expenditure in sum of Rs. 2,52,05118.00. CW-1, Krishnarao Ganesh Joshi, was confronted these entries and he admitted that there is no concept of profit, but there is concept of surplus. He further admitted that in the income and expenditure account Exh. C-8, there is entry, showing the excess of the income on expenditure. This statement supports the evidence of the witnesses examined by the Second Party that initially the financial support was fully given by the Central Government but when the N.C.L. became self sufficient, the financial support was reduced by the Government and the N.C.L. is capable to raise the funds by its own. The statement of the account, through the entries therein shows various sources of the receipts of the funds for the N.CL. Though there is no profit motive but the entries in the receipts and the expenditure statement (Exh. C-8) and the evidence of the witnesses show that the N.C.L. receives the funds from various agencies for undertaking the project and such funds had increased the expenditure for the undertaking the project and there remains surplus. This may not be termed as 'profit', but certainly, there is raising of the funds from this project and there is surplus of the funds. They are invested by the N.C.L. with the different institutes. That apart, the point, which I want to drive at is that the N.C.L. does not solely depend on the funds, allowed by the Central Government, through the C.S.I.R. The evidence shows that it receives the fees, in lieu of the services rendered to the clients through the research work.

29. There is another supporting reason to take the view that the N.C.L. is an 'industry'. The Legislature has effected the amendments to certain provisions contained in the Industrial Disputes Act, 1947, through the Industrials Disputes Amendment Act, No. 46 of 1982. The Legislature proposed the amendment to the definition of 'industry' contained in Section 2(j) of the Industrial Disputes Act, 1947. The proposed amendment has not been brought into force with regard to the definition of term 'industry', but the proposed amendment furnishes some clue with regard to the definition of the 'industry' qua Research-Institute. In the proposed amendment, the Legislature has placed the educational, scientific research or training institutes in the Saving Clause. Thus, the object behind this exercise appears to be to exclude the 'research institutes' from the umbrella of the definition of 'industry' as given in Section 2(j) of the Industrial Disputes Act, 1947. It is the cardinal principle, in the matter of the interpretation of the Statutes that no word in the Statues is employed without any object or the meaning. No-doubt, the proposed amendment to the definition of 'industry' as given in Section 2(j) of the Industrial Disputes Act, 1947, has not been given effect to, despite bringing into force rest of the amendments, but the fact remains that the Legislature has proposed the amendment to the definition of 'industry' in Section 2(j) of the Industrial Disputes Act, 1947, and has specifically excluded or saved the Research Institute from the definition of 'industry'. Obviously, there appears to be an attempt, on the part of the Legislature to over-come the effect of the observations of the Supreme Court contained in paragraph No. 135 of Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and others Where, under the Caption 'Research' Supreme Court has held that the Research Institutes, though run without profit motive are 'industries',

30. Now, I turn to certain decisions relied upon by the learned advocate for the first party N.C.L. to buttress his contention that the N.C.L. is not an 'industry'. He laid great emphasis on the Supreme Court Judgment in the Group of Civil Appeal No. 1787 to 1792 of 1991 (Council of Scientific and Industrial Research and another. Vs. Smt. Padma Ravinder Nath and Others). It appears that the case is un-reported. The appeal before the Hon'ble Supreme Court was preferred by C.S.I.R. and A.C.R.C. against the Judgement by Full Bench of the Central Administrative Tribunal, Principle, Bench, New Delhi, in which the CAT had held that the C.S.I.R. is 'industry' within the meaning of Section 2(j) of the Industrial Disputes Act, 1947. Full Bench of CAT, however, had held that so far as the Constitutent Units of the Council is concerned, the matter had to be decided on the facts, arising in the case and in the absence of the Appropriate Data and the material, it would not be proper to decide such a question. It appears from the observations in the Judgement of the Supreme Court that the Full Bench rendered its opinion to the Division Bench of the C.R.T., New Delhi and the Division Bench, in turn, took the view that it was not necessary to rest its decision, on the question decided by the Full Bench, but decide on certain other aspects and gave certain directions giving relief in part of the employees of C.S.I.R and its Constituents Units. The Hon'ble Supreme Court held that this view, rendered by the Full Bench of the Tribunal, becomes ineffective, so far as the parties are concerned. In the concluding part of the Judgement also, Hon'ble Supreme Court observed that the decision of the Full Bench has become ineffective so-far as the law on the question whether C.S.I.R is an 'industry'. The Hon'ble Supreme Court further observed that the decision of the Division Bench would bind the parties. Thus, close reading of this Judgement, does not support the contention of the learned Advocate for the first party N.C.L. that the Hon'ble Supreme Court has held in the above un-reported decision that the C.S.I.R. is not 'industry'. What appears from the observations in the Judgement that the Hon'ble Supreme Court has declared that the decision of the full bench of the CAT, New Delhi, has become ineffective in which the Full Bench of CAT had held that the C.S.I.R. was an 'industry'. At the most, this Judgement is useful to the learned advocate for the first party to neutralise the effect of the full bench decision of the CAT, New Delhi, which has been relied upon by the learned advocate for the second party employees and the copy of that Judgement is produced by the learned advocate for the second party, which is at Sr. No. 2 in the Bunch of the cases, relied upon by the learned advocate for the second party.

31. The Advocate for the first party N.C.L. then relied upon the Supreme Court decision in the case of **Physical Research Laboratory** Vs. **K.G. Sharma. (below Exh. C-19** (1). in that case, the question whether the Physical Research Laboratory was an 'industry' within the meaning of Section 2(j) of the Industrial Disputes Act, 1947. The Labour Court held that it was an 'industry' though it recorded the findings that the P.R.L. was purely a Research Institute and the research, which was carried on, by it, is not connected with the production, supply or the distribution of the goods or the services. P.R.L. challenged that finding before the Hon'ble Supreme Court, because Hon'ble Gujarat High Court had already taken a view that the C.P.R.L. was an 'industry'. Hon'ble Supreme Court allowed the appeal and set-aside the Award passed by the Labour Court. While holding so, Hon'ble Supreme Court noted that the P.R.L. was an Institute under the Government of India's Department os Space. It was engaged in pure research in Space. The purpose of research was to acquire the knowledge about formation and evaluation of the universe, but the knowledge, so acquired, was not intended for sale. Then Hon'ble Supreme Court noted that the Labor Court, in its dicision-1/ award, had recorded the findings that P.R.L. was not connected with the production, supply or the distribution of the material, goods or the services Hon'ble Supreme Court then that the P.R.L. was conducting the Research not for the benefits or the use of the others. No-doubt, results of the research undertaken by the P.R.L. were occasionally published, they were never sold. There was no material to show that the knowledge so acquired by the P.R.L.'s was marketable or had any commercial value. These observations bring about the distinction between the P.R.L.'s case and the present case. In the P.R.L.'s case, research Institute was engaged in pure research in the space science whereas, in the present case, the N.C.L. undertakes the different projects for conducting research in the different fields to enhance quality and quantity of the product and giving boost to the industry. The research is not for the sake of research only, but as articulated by its objects, the research and development is aimed at continuous improvement of the indigenous technology as well as the development of the new technologies, relating to the country's social, economic and the industrial needs. Thus, the ratio of the P.R.S.'s case, cannot be made applicable, to the present case.

32. Besides the above Supreme Court decisions, the learned advocate for the first party N.C.L. has relied upon the decision of the Central Government Industrial Tribunal, Mumbai, in Reference CGIT 2/42 of 1942. In that case the CGIT held that the N.C.L. was not an 'industry'. The Judgement is not binding on this tribunal. I have gone through the same. The evidence, which is adduced, in the present case, obviously, was not there, and particularly, in the context of the economic activities and also, I find that there is no Reference to the Supreme Court decision, in the case of Bengalore Water Works Case, The learned Advocate for the first has also relied upon certain decisions of the Central Government Industrial Tribunal-cum-Labour Court at Kanpur and Delhi, besides Bombay, to show that the Tribunals have held that the C.S.I.R. is not an 'industry'. Needless it to say that these Judgments have no binding effect on this Tribunal. The findings in the Award, rendered by the Industrial Tribunal, in these cases, were based on the peculiar facts of the particular case and the evidence, adduced before the Tribunal. In one of the case, the witnesses examined by the first party Institute were not cross-examined by the second party employee. Any way, these Judgments are not much assistance to the learned advocate for the N.C.L. to substantiate its contention that the N.C.L. is not an 'industry'..

33. Reverting to the activities of the N.C.L., at Exh. C-7 (1 to 5) there are copies of the letters, addressed to the N.C.L. and the letters were sent by the officers of the Ministry of Science and Technology, Government of India. They pertained to the Projects, which were undertaken by the N.C.L. The objects of the project are mentioned in these letters. On going through the letter Exh. C-7 (1), it is seen that the Department of the Bio-Technology, had decided to establish the Pilot Plant Unit and the object of the Project was to develop the "tissue culture technology and transfer the same from the Laboratory Level to the field. The contents of the letter Exh. C-7 (4), reveal that the N.C.L. had accepted the project assigned by the Central Government, Ministry of the Science and Technology, titled "Micropropagation Technology Park". The objects were large-scale production for industry and market and transfer of technology to the industry. These projects, undertaken by the N.C.L. has the direct nexus with the material objects and the human-wants. They are not the projects in the field of Space-Research. This difference in required to be noted and if understood, it supports the contention of the learned Advocate for the second party that having regard to the activities of the N.C.L. it is an 'industry' within the meaning of Section 2(j) of the Industrial Disputes Act.

34. Having taken into consideration the facts which have emerged and having regard to the objects and the activities of the N.C.L., I find that there is systematic activity with the the help of cooperation between the employer and the employees. No-doubt, there is no production/ distribution of the goods, but the object of the entire activity is to render the service calculated to satisfy the human wants and the wishes. The object of the activity is to bring about the qualitative and the quantitative change in the product, which is the subject matter of the project. Having regard to all these facts, I hold that the N.C.L. satisfies the cardinal tests, as laid down by the Hon'ble Supreme Court, in the **Bengalore Water Supply's** case and it satisfies the requirements of the definition of 'industry' as given in Section 2(j) of the Industrial Disputes Act, 1947. I, therefore, record the findings that the N.C.L. is an 'industry'.

35. **Issues Nos. 2 and 3 :**

Both these issues can be conveniently considered together since the evidence with respect to them is, to some extent, over-lapping.

36. Throughout the trial of the Reference, there was an attempt on the part of the first party N.C.L. to establish that the second party employees were engaged in the project work, exclusively and they were not performing any duty, related to N.C.L. The first Party's witness Mr. Krishnarao Ganesh Joshi (CW-1), in the paragraph No. 3 of his affidavit evidance, deposed that the projects are not the main activities of the first party and that the main activity is always doing research in chemical science, basic well as applied research. He further deposed that for the purpose of the main-activities, there are permanent employees, whose service conditions are governed by the C.C.S. Rules 1965. According to him, as far as the projects are concerned, if any extra human-resource is required for the project, the same is met by engaging the persons from out-side, purely on temporary basis. This engagement of temporary personnel is done for the project and the expenses for payment to these persons, are met from concerned project funds, received from the sponsor.

37. I have already reproduced above, the objects of the C.S.I.R. There, it is not mentioned that the research in the Chemical Science shall be the main activity of any unit of the C.S.I.R. In fact, in paragraph No. 3 of the affidavit Mr. Joshi has stated that there are also projects on the Chemical Industries, undertaken by the N.C.L. to the extent of meeting of the objectives of the N.C.L./C.S.I.R. The first party has not produced any documentary evidence to show that the research in the chemical science, is the main activity of the C.S.I.R./N.C.L. and the project is its allied activity. No such distinction could be made out from the reading of the objects which are already reproduced in the earlier part of the judgment. then the above referred statement, which appears in paragraph No. 3 of the affidavit evidence of Mr. Joshi, runs contrary to his next statement that the research in the chemical science is the main activity of the N.C.L. On scanning of the objects of the C.S.I.R. it is seen that the scientific industrial research of the national importance, is the main activity and all the activities, which are aimed at doing the research in the scientific and industrial subjects, are part of the main activity. They fall within the same sphere. All the members of the second party have worked for—most of the period in D.B.T. (Department of Bio-Technology) project, barring short term under the NABAD project. The D.B.T. sponsored Project was on the subject of "Tissue Culture Pilot Plant Unit Facility". The second phase of the project was "Micro Propagation Technology Park—Pilot Project." The entire reading of the evidence, does not show that this project had no concern whatsoever with the activities of the N.C.L. The D.B.T. Projects were accepted by the C.S.I.R. and sent to the N.C.L. as a part of the activity or the N.C.L. Therefore, there is no force in the statement of the withness examined by the first party N.C.L. that the undertaking any project was not the main activity of the N.C.L. and these employees were not involved in the main activities of the N.C.L. but they were involved in the allied activities.

38. But this does not establish the relationship between the N.C.L. and these employees. To a partinent question, which appears in the cross-examination, Mr. Joshi, could not lay hands on any particular document to show that the concerned agency, which had sponsored the project, had made a requeest to engage manpower on its behalf. He admitted that no such communication was filled on the record.

39. However, after the evidence of the witness was over, the first party has produced certain documents along with the list Ext. C-16, In that list at Annexure-'M', page 28, there is copy of the Memorandum of the Understanding between the N.C.L. and the Department of Biotechnology, Government of India. At the printed page No. 3, 2.4 there is the provision to confer the right on the N.C.L. to recruite the Scientific and the Non-Scientific staff, as per the details given in the Annexure-IV. This provision shows that on the strength of the provision of the N.C.L. engaged the second party employees on the temporary basis, as the project employees.

40. Admittedly, all these second party employees were engaged by the N.C.L. under the different appointment orders under the different projects and for most of the period, they were engaged in the D.B.T. project. In the context of the claim of their regularisation, the first party N.C.L. has taken the stand that there are recruitment rules for giving appointment at C.S.I.R./N.C.L. and there is procedure laid down in the Recruitment Rules for giving such appointments. These employees are not direct employees of the N.C.L. but engaged for and on behalf of the sponsor for the limited period of the time, on purely temporary basis, as specified in the appointment/extension orders issued to the second party from time to time. It is the stand of the N.C.L. that the second party employees were aware of the clauses, while taking the assignments in the concerned project. They were continued for longer period because the sponsoring authority went on continuing the project from time to time and also provided the funds for the wages of the second party employees. Thus, accordingly to the N.C.L. the second party employees were appointed on contractual basis to work in the project and they have no right to any post at the N.C.L.

41. The first party, has produced the C.S.I.R. Rules, 1994, for recruitment of the Scientific Technical and the support Staff. They are at Ext. B below the list Ext. C-5, at page No. 49 of the bunch. These service rules govern the recruitment and the Selection of the Scientific Technical and the Support employees. Entire Scientific Technical and the support staff is divided in five groups namely groups Nos. 1 and II (Support), group No. III Technical Group No. IV R. and D. Scienctific and the group No. V Engineering and Architect. Each group has number of given grades and groups are descriebed in roman numericals and the Grades in Arabic numericals. in the recruitment rules the qualifications, experience and the age limit for each of the group is prescribed.

42. The first party, has produced the copies of the advertisement issued from time to time, for the recruitment

of the candidates for the temporary post, in the project. This Memorandum of the guide-lines and the salary slabs of different project staff is produced at Exh. C- at page No.69 of the bunch-List Exh. C-5. The copies of the advertisement are at Exh. 'D', collectively marked at page No. 72, of this bunch below Exh. C-5. from page No. 72 to page No. 82. The first party has also produced the copies of the applications filed by the second party employees as sample applications. They are at Exh. 'E' collectively marked from page No. 83 to page No. 90. At Exh. F, collectively in this bunch, below Exh. C-5, from page no. 91 onwards, the copies of this Memorandum and the appointment orders are produced. The second party employees have also produced the copies of the appointment orders, interview call letters and the extension letters and they are at U-28 to U-35, below the list Exh. U-12. All the appointment orders are of the same nature, except the details as regards the names of the candidates, posts and the scales. They contain the terms and the conditions of the appointment which included in this Memorandum, issued by the Administrative Officer of the N.C.L. preceding to each appointment. I will reproduce one of the appointment order, as a specimen to high-light the terms and the conditions, incorporated in the appointment order. The text of the appointment order, Exh. F. page 91, produced alongwith list Exh. C-5, issued to Mr. Deepak Pillay is as under :—

Sub : Appointment of Mr. DEEPAK PILLAI as JUNIOR TECHNICAL ASSISTANT, in the project sponsored by DET, NEW DELHI, at NCL.

"The Director, NCL, has been pleased to accord approval to the appointment of Mr. DEEPAK PILLAY, as a JUNIOR TECHNICAL ASSISTANT, in the project on TISSUE CULTURE PILOT PLANT UNIT/ FACILITY, on behalf of the DEPARTMENT OF BIOTECHNOLOGY (DBT), New Delhi, tenable at NCL, on the basic pay of Rs. 1400/- per month in the scale of pay of Rs. 1400-40-1800-EB-50-2300 plus usual allowances as admissible under the rules. The appointment is for the period upto MARCH, 1994, in the first instance or till the duration of the said project, whichever is earlier, subject to the following terms and conditions.

(I) His appointment is an ad hoc appointment on purely temporary basis which may be terminated at any time without any notice or without assigning any reason, therefor.

(II) His appointment is not a CSIR appointment, temporary or otherwise, and does not entitle him to any claim, implicit or explicit, on any CSIR/NCL post.

(III) No. T.A. will be admissible for joining duty.

If the above terms and conditions are acceptable to him, he may report for duty immediatley or within 7 days from the date of issue of this office-Memorandum.

Sd/-

(R. GOPALAKRISHNAN),

ADMINISTRATIVE OFFICER.

43. On going through the documents produced by both the sides, with regard to the procedure of the appointment, it is seen that the N.C.L. used to issue advertisements, calling applications for the temporary posts in the project. Qualification, job requirements, were mentioned in the advertisements. In pursuance of the advertisement given by the N.C.L., from time to time, the second party employees filed their applications. They were interviewed by the Selection Committee and on selection, the Administrative Officer of the N.C.L. issued the appointment orders to engage the second party employees in the different posts on the project. They were continued on the basis of the extension given to them, from time to time. At Exh. U-36, of the record, there is statement produced by the second party. Shri Joshi, (CW-1), was confronted with this statement and he admitted the same to be correct. The statement Exh. U-36 is the compilation of the details of the 12 employees from the second party and the statement contains the details, as regards the date of the birth, the project name, the post held, the duration, the number of the days worked during each phase and the total of the number of days worked by each of the employee.

44. On going through the particulars given in this statement, it is seen that Shri Kishor Suryawanshi, was engaged as an Electrician in the year 1990 and then as a Junior Laboratory Assistant and continued as such, till the date of the Reference. Some of the employees were engaged in the year 1990, as the Junior Laboratory Assistant and continued as such. Some of them were engaged in the year 1993 and 1994 as the Junior Laboratory Assistant and continued as such. ——— employee, by name Shri Parag R. Akkadkar, was engaged as Technician Photo Assistant in the year 1990 and continued as such, till the date of the Reference.

45. It was elicited form the witness, examined by the employees that while accepting the different appointment orders, they had read the terms and the conditions, incorporated therein. It was also elicited from that they had filed the applications for the appointment in the project. It was then suggested to them that they had worked under the different projects. The witness Mr. Joshi, examined by the first party N.C.L. stated that the second party employees were project based and the N.C.L. had not utilised their services for the purpose other than the project work. Then, he stated that they were never treated on par with the permanent employees of the N.C.L. On the basis of this material, it was submitted by the learned Advocate for the first party N.C.L. that the second party employees were engaged by the N.C.L. as the project employees; their appointment were for the limited duration and subject to sanction of the terms and the conditions, incorporated in their appointment orders and thus, the appointments were contractual appointments and it was explained to all the employees vide their appointment orders that these appointments would not confer any right on them to claim any post at C.S.I.R/N.C.L. He further submitted that this

being the position and the employees being the project employees, they have worked for longer duration, is immaterial and they would not get any right to claim the regularization/permanency, by virtue of their appointments.

46. As against this, it was submitted by the learned advocate for the second party employees that the second party employees were engaged in the project, which was the main activity of the N.C.L. and that they were thus appointed to perform and undertake the activity which was essentially one of the predominant activity of the N.C.L. In the statement of claim, reference is made to the completion of 240 days' continuous service by each of the employee and claim of the regularisation on the basis of same.

47. In this regard, it be noted that the condition of continuous service of 240 days, in the preceding 12 months, is incorporated in Clause 4-C of the Model Standing Orders issued under the Industrial Employment (Standing Orders) Act, 1946. However, in the present case, the model Standing Orders isued under the Bombay Industrial Employment (Standing Orders) Rules, would not be applicable to the present case, because the first party N.C.L. is one of the unit of the C.G.I.R. Therefore, there is no question of application of the Model Standing Orders, framed under the Bombay Industrial Employment (Standing Orders) Rules 1959.

48. In the statement of claim, filed by the second party workman, there is reference to continuous service for more than 240 days and the regularisation on the basis of such continuous service. Obviously, this has reference to Clause 4-C of the Model Standing Orders, under Schedule-I issued under the Bombay (Industrial Employment) Standing Orders. Thus, the Standing Orders are not applicable to the present case.

49. The second party employees, through the evidence of UW-I Deepak Murganand Pillay—referred to the Industrial Employment Standing Orders (Central Rules) framed under the Industrial Employment (Standing Orders) Act, 1946. Shri Pillay stated that he has worked for more than three years and is entitled to the permanency. Shri Pillay also stated that the N.C.L. is a 'Factory' within the meaning of Section 2(M) of the Factories Act, 1948 and thus, the 'Industrial Establishment' within the meaning of Section 2(e) of the Industrial Employment (Standing Orders) Act, 1946. To become on 'Industrial-Establishment' within the meaning of Section 2(e) of the Industrial Employment (Standing Orders) Act, 1946, it must be an 'industrial establishment' as defined in Section 2 of the Payment of Wages Act, 1936 or a 'factory' as defined in clause (m) of Section 2 of the Factories Act, 1948, 'railway' as defined in clause (iv) of Section 2 of the Indian Railway Act, 1890. I proceed on the hypothesis that the N.C.L. 'Industrial Establishment' within the meaning of clause (2) of Section 2 of the Payment of Wages Act. 'Industrial Employment' (Standing Orders) Central Rules 1946, with have been referred to by the witness examined by the second party, does not contain any provision as regards the regularisation of the services of an emplyee on completion of three mnths' continuous service. I have also gone through the Mode Standing Orders (Central) Schedule-I applicable to an 'industrial establishment' under the Coal mines. Clause (2) (e) of these Model Standing Orders, defines 'temporary workmen'. Clause I3 of these Model Standing Orders, makes provisions as regards the termination of the services of the employee employed as a permanent or a temporary workman. However, there is no provision of permanency on completion of 240 days' on par with Clause 4-C of the Model Standing Orders under the Bombay Industrial (Employment Standing Orders) Act, 1946. I have also gone through the Model Standing orders on the additional items, applicable to all the Industries, below Schedule-I-B. In clause-2, of these Standing Orders below Schedule-IB, there is provision for confirmation of an employee. It reads as follows :—

CONFIRMATION:

"The employer shall in accordance with the terms and the conditions stipulated in the letter of appointment, confirm the eligible workman and issue a letter of confirmation to him. Whenever a workman is confirmed, an entry with regard to the confirmation shall also be made in his service card within a period of thirty days from the date of such confirmation."

The provisions, as regards the confirmation agrain refer to the terms and the conditions stipulated in the letter of appointment. In the present case, in the letter of appointments issued to these employees contain explicit term that it was an appointment for a particular duration or till the project is over and the particular appointment shall not confer any right on an employee to claim permanent/ regular post under the C.S.I.R./N.C.L. Thus, this clause does not help the second party employees, in any manner, with regard to the regularisation, on the basis of their appointment or continuous service. Learned advocate for the second party has not brought to my notice any provision in the Industrial-Employment (Standing Orders) Rules or the Standing Orders, framed thereunder, which confer right on the second party employees to claim permanent post on the basis of their continuous service, for more than 240 days. Thus, there is no legal support to the statements made in the Statement of claim as well as in the affidavit of the second party employees that they are entitled to the permanent/regularisation, on the strength of their continuous service for more than 240 days with the N.C.L.

50. In the affidavit of Mr. Deepak Pillay, there is reference to the Government order/Notification, dated, 10-9-1993, which entitled the emplyees to regularisation on completion of 240 days's service. That Government Order or the Notification is not produced on the record.

51. In the Statement of claim, the second party emplyees have allegerd that by keeping them as temporary emplyees, for years together, the N.C.L. deprived them of getting the status and the privileges of the permanency and thereby indulged into unfair labour practice under Section 2(ra) of the Industrial Disputes Act, 1947. It was

vehemently contended by the learned advocate for the second party employees that these employees were engaged in the project and they were continued as such as project/temporary employees, with the object that they should not get permanency and by this act, the N.C.L. has committed unfair labour practice under Section 2(ra) of the I.D. Act, 1947. He referred to item No. 10 below Fifth Schedule which reads as follows :—

> "To employ workmen as badlis", casual or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen."

It appears that the Fifth Schedule came to be introduced in the I.D. Act, by theAmendment Act 46 of 1982. To a pertinent query whether this Act has been brought into force, learned advocate for the second party has produced before me the xerox copy of the Acts and the Notification from the Indian Factories and Labour Reports **(FLR 1982 Vol. 45).** It appears that clause (ra) of Section 2 of the I.D. Act, was introduced by Clause 2 (I) of this Amendment Act. At page No. 5 of this bunch there is copy of the Notification, which shows that the Act No.46 of 1982, come into force with effect from 21-8-1984. That Act was brought into force because of certain clauses in the Amending Act No. 46 of 1982. That is not material for the present discussion. Suffice it to say that the Fifth Schedule, which enumerates the unfair labour practice under the I.D. Act, 1947, as defined under Section 2(ra) has been brought into force with effect from 21-8-1984. On this basis, the learned advocate for the second party submitted that Item No. 10 of Schedule—Fifth read with Section 2(ra) of the I.D., Act, 1947, would be squarely applicable to the present case because of the N.C.L. kept the second party employees, as temporary. for years together representing that they are the project employees, with the object to deprive them from getting the permanency.

52. It be noted, in this regard that Section 10 of Chapter-III of the I.D. Act, 1947 pertains to the Reference of the dispute to the Boards, Courts or the Tribunal. Section 10(1)(c) refers to the reference of an industrial dispute to the Labour Court, which relates to any matter specified in Second Schedule and Section 10(1) (d) of the I.D. Act, pertains to the Reference to the Tribunal, with regard to any matter, specified in the Second Schedule or the Third Schedule. Thus, referring authority is conferred with the discretion to refer the industrial dispute to the Industrial Tribunal which pertains to any, of the matter specified in either Schedule-II or Schedule-III of the I.D. Act, 1947. On going through the Reference order in the present case, it is seen that the competent authority has made this Reference under Section 10(1)(d) read with Section 2-A of Section 10 of the I.D. Act. What is the important here is to note that Fourth Schedule and the Fifth Schedule are not mentioned in Section 10 of the I.D. Act. Fourth Schedule pertains to the condition of the service, for change of which, a notice is to be given under Section 9-A of the I.D. Act, 1947 and the Fifth Schedule pertains to the unfair labour practices, enumerated therein, which consists of 16 items. It be further noticed that according to the proviso to clause (1) below Section I0(1) of the I.D. Act, where the dispute is in relation to which the Central Govt. is the—— Appropriate Government, it is competent for the Govt. to refer the dispute to a Labour Court or to an Industrial Tribunal, as the case may be. Thus, where the Central Government is the Appropriate Government, the Industrial Dispute could be referred to the Labour Court or the Industrial Tribunal, irrespective of the matters,—— specified in the Second or the Third Schedule of the I.D. Act, At this stage, itself, it would be useful to refer to item No. 6 of Schedule-II which pertains to the matters within the jurisdiction of the Labour Court and it contains the residuary clause in the form of Item No. 6 which explains that all the matters other than this item specified in the Third Schedule, could be referred to under this item. It be again noted here that there is no mention of Schedule-IV or the Schedule-V and particularly Schedule Fifth, which is relied upon in the present case to refer an industrial dispute under any item enumerated therein to the Labour Court or to the Industrial Tribunal for its adjudication. This shows that despite the Fifth Schedule, read with Section 2(ra) being incorporated in the I.D.Act, and having given force to it, the Legislature has not yet provided the necessary mechanism to invoke any of the item under Fifth Schedule. This is because in Section 10 or rather, in any of the clauses of Section 10 there is no mention Fifth Schedule. Needless it to say that Reference could be made under Section 10 either to the Labour Court or to the Industrial Tribunal. This being the position, in my view, item No.10 of fifth sch. which pertains to the unfair labour practice, on the part of employer, cannot be invked there being no provision for its Reference in Section 10 of the I.D. Act. Apart from that, the Reference making Authority has also not invoked this item and this is not the subject matter of the present Reference. Reference making authority has called upon this Tribunal to adjudicate the dispute as to whether the action of the first party is legal and justified, in treating the second party employees, as the project employees.

53. In his attempt to persuade the Tribunal to hold that the first party has indulged into unfair labour practice under item No. 10 of Fifth Schedule of the I.D. Act, 1947, learned advocate for the second party had relied upon certain decisions and vehemently contended that not only the Fifth Schedule has been brought into force, but the Industrial Tribunal can invoke item No. 10 of Fifth Schedule to hold the first party- N.C.L. guilty of the unfair labour practice of that item under Section 2(ra) of the I.D.Act. In support of this proposition, he relied upon the Hon'ble Supreme Court decision in the case of H.D.Singh Vs. Reserve Bank of India and others. [1985 (51) F.L.R. page 494]. On going through the facts of the case, it is seen that the Appellant, before the Hon'ble Supme Court, was engaged as Mazdoor to help Examiners of Coins /Notes at the Reserve Bank of India. He was paid daily wages, at certain rates. While being employed on daily wages the appellant passed that Matriculation Examination. On account

of that, he was discontinued by oral termination. The appellant, before the Hon'ble Supreme Court, had raised a dispute over the demand for reinstatement and the said dispute was referred to the Central Govt. Industrial Tribunal and on trial, the Tribunal held that the second party was not entitled to any relief. In appeal before the Hon'ble Supreme Court, certain confidential Circular was relied upon to show how the Reserve Bank has given instructions to the officers to continue the employees as temporary/badli to deprive them from permanency. That is not material, but from the context of the reported Judgment it is seen that in paragraph No. 11 of the reported Judgment, Hon'ble Supreme Court referred to Section 2(ra) read with Item No. 10 of Fifth Schedule of the I.D. Act, 1947, and reproduced Item No. 10 in paragraph No. 11 of the Judgement. Learned Advocate for the second party workmen heavily relied upon the observations in paragraph No. 11 of the reported Judgment to butress his contentions that the Hon'ble Supreme Court has invoked item No. 10 of Fifth Schedule of the I.D. Act, to hold the employer guilty of the unfair labour practice. According to him, on this basis, this Tribunal also can hold that the N.C.L. is guilty of the unfair labour practice. In paragraph No. 11 of the reported Judgment (Supra), the Hon'ble Supreme Court referred to item No. 10 of Fifth Schedule of the I.D. Act, 1947, but reading of the entire Judgment and particularly paragraph No. 13 reveals that the Hon'ble Supreme Court held that the action, on the part of the Reserve Bank, in——discontinuing the appellant amounts to 'retrenchment' under Section 2(oo) of the I.D. Act, 1947 and it was in violation of the provisions of Section 25 of the said Act. It is significant to note that the Hon'ble Supreme Court did not hold that the employer—Reserve Bank of India was guilty of the unfair labour practice under Item No. 10 of the Fifth Schedule of the I.D. Act. Perhaps, the learned advocate for the second party lost sight of this fact, while heavily relying upon paragraph No. 11 of the reported Judgment.

54. He next relied upon the decision of Kerala High Court in the case of **Kerala Rubber and Reclaims Ltd., and others** Vs. **P.A. Sunny, 1989 (58) F.L.R. page 535).** as well as the decision of the Karnataka High Court, in the case of **V. Mookan** Vs. **Southern Roadways Ltd., and another (1989)—(74) F.L.R. page 252).** On going through the Judgment, it is seen that the Kerala High Court found that transfer of an employee/workman from one place to another pertains to condition of service and in the process, invoked residuary clause of the Second Schedule of the I.D. Act. In any case, both the Judgments pertain to the transfer of the employees from one place to another and they do not pertain to Item No. 10 of Fifth Schedule to the I.D. Act, which pertains to unfair labour practice by engaging employee as badli or on temporary for years together.

55. In the background of these facts, I am not inclined to hold that while adjudicating the dispute over the present demand in the present Reference, this Tribunal can hold that the first party has committed unfair labour practice under Item No. 10 of Fifth Schedule read with Section 2(ra) of the I.D. Act.

56. As held above, second party has failed to prove that the first party has committed the breach of any of the provisions contained in the Model Standing Orders, by not giving permanency to these employees. Then, as held above, the second party has failed to prove that the first party committed unfair labour practice under item No. 10 of the Fifth Schedule read with Section 2(ra) of the I.D. Act. Be it noted, in this context that the D.B.T. project was assigned to the N.C.L. under the M.O.U Exh. M, below the list Exh. C-16. It appears from the contents of the M.O.U. that prior to this M.O.U there was one M.O.U signed between the D.B.T. and the N.C.L. on 10-2-1989. It was superseded by this M.O.U. and under this M.O.U., project was assigned to the N.C.L. and the initial duration of the project was from March 1989 to 1997. It appears from the provisions contained in the M.O.U. that the major part of the funds were provided by the D.B.T. I have already referred to the provisions in the M.O.U. in Clause-2.4, which entitled the N.C.L. to recruit the Scientific and non-scientific staff, as per the details given in the Annexure. IV below the M.O.U. The D.B.T. had reserved the right to terminate the grants, at any stage, if it is finding that the grants has not been properly utilised or the appropriate progress has not been made. It is an admitted position that these employees for most of the period, were engaged in the D.B.T. project. It is further seen from the record that the project was extended, from time to time. The copies of the extension letters are at Exh. C-7(1) to C-7(5). It appears that the project was extended on the last occasion upto 30-4-2002. Since the project was extended, the second party employees got extension in their appointments. They have produced some of the extension letters, which are filed below Exh. U-12. I need not go into these details, but the point which I want to drive is that these employees were engaged in the D.B.T. project and they were continued on the basis of their original appointment orders since the project was extended. Initially, some of them were engaged in another project, but they resigned and joined the D.B.T. project. I have already reproduced specimen of the appointment orders, which contains the necesary terms and the conditions of their appointment. From the text of the appointment orders, it is seen that it was made clear by the first party that they were engaged in the particular project, for particular duration, their appointment was temporary and more importantly, they were informed that the appointment would not confer any right on the appointee to claim permanent post against the C.S.I.R./N.C.L post.

57. No doubt, it is true that the appointment orders were issued by the Officers of the N.C.L but since the N.C.L had accepted the project under the M.O.U it was natural for the officers of the N.C.L to issue the appointment orders. As held above, the work of these employees was supervised by the project leader of the N.C.L and not by the any officer of the sponsorer. This is also undispu-

table case that under the M.O.U the N.C.L had accepted the responsibility to conduct the project and in pursuance of the M.O.U certain funds were received. As mentioned above, the N.C.L was conferred with the authority to engage the Scientific as well as the Non-Scientific Staff for the purpose of the project. Since the N.C.L was conferred with the right for the appointment of the temporary workmen for the project, it was, but natural and within the rights of the N.C.L to supervise the work performed by all these employees and issue them memos, if required. I have also held that the pay and the allowances of these employees were paid by the N.C.L. but the funds were received by the N.C.L. from the sponsorer and the expenditure towards the pay and the allowance was incurred from the funds received from the sponsorer authority. Thus, despite the fact, that these employees were appointed by the N.C.L. and despite the fact that they were under the control and the supervision of the officers of the N.C.L., the fact remains that throughout the period of their tenure, they remained the project employees and were treated, as such. Their appointments were made on the basis of the Notifications, issued by the N.C.L. from time to time. Then the Office Memorandum was also issued to describe the qualification and the pay-scale for each post. It is true that they were interviewed and on finding eligible to the concerned post, they were given the appointments. All these facts were stressed by the learned advocate for the second party employees to substantiate his contention that these employees were found eligible by the N.C.L. and they were appointed and by virtue of their continuous service with the N.C.L., they are entitled to permanency and merely because they were appointed under the project, permanency should not be declined to them. He urged that this court can remove the veil and find out the substance in the matter. In the earlier part of the judgment, I have done that exercise and found that despite these circumstances, it is not possible to hold that the temporary appointments under the projects were mere pretext or the camouflage and, in fact, they were the employees of the N.C.L. and merely to deprive them from the permanency, they were continued in the project. In view of this conclusion, it is not possible to hold that the first party N.C.L. treated them as the project employees with the object to deprive them permanency. As a corollary of this, I hold that the demand made by these employees for their regularisation, is not legal and just.

58. As discussed above, these employees have put in about ten years service in the project with the N.C.L. However, they were engaged in the project and continued as such. By engaging them in the project and by continuing them as such, the first party did not commit the breach of any of the provisions in the Industrial Disputes Act as well as the Standing orders. As a result of this, I hold that the demand made by the second party employees is not legal, justifiable and they are not entitled to any relief.

59. With this, I proceed to pass the following award.

AWARD

(i) It is hereby declared that the National Chemical Laboratory, Pashan Pune, is an industry under Section 2(j) of the Industrial Disputes Act, 1947.

(ii) The action of the Management of the N.C.L. in denying regularisation to Mr. Kishor, S. Suryavanshi and 15 others is legal and justified and the second party employees are not entitled to any relief.

(iii) Award is made accordingly.

15th November, 2003.

J. L. DESHPANDE, Industrial Tribunal.

नई दिल्ली, 25 फरवरी, 2004

का. आ. 691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जोधपुर के पंचाट (संदर्भ संख्या 3/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-2-2004 को प्राप्त हुआ था।

[सं. एल-12011/42/2002-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 25th February, 2004

S. O. 691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref.3/2003) of the Industrial Tribunal Jodhpur as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda, and their workmen, received by the Central Government on 25-02-2004.

[No. L-12011/42/2002-IR(B-II)]

C. GANGADHARAN, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर

पीठासीन अधिकारी :-श्रीमती निशा गुप्ता.आर.एच. जे. एस. औ०वि० (केन्द्रीय)सं०:—03/2003

गणपतसिंह देवड़ा द्वारा ललित शर्मा अध्यक्ष राजस्थान स्टेट बैंक वर्कस ओरगेनाइजेशन एस. बी. बी. जे. मण्डिया रोड़, शाखा पाली।

.....प्रार्थी

बनाम

जनरल मैनेजर बैंक ऑफ बड़ौदा, जोनल ऑफिस आन्नद भवन, चतुर्थ तल, संसारचन्द्र रोड़, जयपुर।

.....अप्रार्थी

उपस्थिति :—

(1) प्रार्थी प्रतिनिधि श्री ललित शर्मा उप०

(2) अप्रार्थी इकतरफा।

अधिनिर्णय

दिनांक 23-1-2003

श्रम मंत्रालय, भारत सरकार, नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 12011/42/2002 दिनांक 17-6-2002 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

"Whether the action of the management of Bank of Baroda, Jaipur is not providing pension benefits to Shri Deora Ganpat Singh after voluntary retirement is legal and justified? If not, what relief the concerned workman is entitled to?

प्रार्थी ने अपना मांग-पत्र प्रस्तुत करते हुए अभिकथित किया है कि प्रार्थी की प्रारम्भिक नियुक्ति लिपिक के पद पर अप्रार्थी संस्थान में 24-12-87 को हुई, प्रार्थी ने 31-3-2001 तक लगातार 13 वर्ष 3 मास 8 दिन तक कार्य किया, अप्रार्थी द्वारा प्रार्थी को भविष्य में निधि (पी.एफ) का सदस्य बनाया गया, प्रार्थी का पी. एफ. का कर्मचारी कूट सं० 51390 है। प्रार्थी का मार्च 2000 तक पी. एफ खाते का शेष रुपये 68258.58 एवं माह जुलाई 2000 में लगाये गये ब्याज एवं पी.एफ. खाते में बैंक के अंशदान को पेंशन फण्ड में अन्तरित कर दिया। अप्रार्थी नियोजक द्वारा दिनांक 14-12-2000 के जरिये जारी परिपत्र में यह उल्लेख किया कि भारत में कार्यरत बैंक के सभी स्थायी या विदेश में कार्यरत भारत-आधारित अधिकारी, जिन्होंने 31मार्च 2001 को कम से कम 15 वर्ष की सेवा पूरी की है/करेंगे या 40 वर्ष की आयु पूरी कर ली है/करेंगे बाबकस्वेसनियो 2001 के अर्न्तगत स्वेच्छिक सेवानिवृत्ति हेतु आवेदन देने के लिए पात्र होंगे इसी क्रम में प्रार्थी ने स्वैच्छिक सेवानिवृत्ति के लिए अपना आवेदन-पत्र अप्रार्थी नियोजक को उचित माध्यम से प्रेषित किया। अप्रार्थी नियोजक के सुखेर शाखा उदयपुर के पत्र दिनांक 31-3-2001 के द्वारा प्रार्थी को बैंक समय समाप्ति के पश्चात् सेवानिवृत्त कर दिया गया। प्रार्थी का कथन है कि वह भी पेंशन विनियम 1995 के अन्तर्गत पेंशन प्राप्त करने की पात्रता रखता है लेकिन अप्रार्थी द्वारा प्रार्थी को न तो पेंशन का भुगतान किया न ही अप्रार्थी द्वारा पी. एफ. में अपने स्वयं के किये गये अंशदान का ही भुगतान किया है। अन्त में निवेदन किया है कि प्रार्थी द्वारा कुल 13 वर्ष से अधिक की सेवा अवधि के उपरान्त भी अप्रार्थी द्वारा प्रार्थी को उसके परिलाभ से वंचित करने एवं 1-4-2001 से पेंशन नहीं दिये जाने के कृत्य को अनुचित एवं अवैध घोषित करते हुए अस्थाई सेवा अवधि एवं सेना में की गई सेवा अवधि को पेंशन के लिए कुल सेवा की गणना में जोड़ने का आदेश पारित किया जावे, अप्रैल 2001 से आज तक की पेंशन राशि मय ब्याज प्रार्थी को अप्रार्थी से दिलाई जावे।

अप्रार्थी का नोटिस जरिये रजिस्टर्ड ए.डी. 21-8-2003 की पेशी का तामील होकर प्राप्त हुआ लेकिन अप्रार्थी की ओर से कोई उपस्थित नहीं हुआ अत: अप्रार्थी के विरुद्ध 21-8-2003 को इकतरफा कार्यवाही का आदेश पारित किया गया।

प्रार्थी ने मांग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया व दस्तावेजात की फोटोस्टेट प्रतियां पेश की गईं।

प्रार्थी प्रतिनिधि की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा मांग-पत्र के समर्थन में प्रस्तुत किये गये शपथ-पत्र में यह कथन किया है कि प्रार्थी की प्रारम्भिक नियुक्ति लिपिक के पद पर अप्रार्थी संस्थान में 24-12-87 को हुई उसने 31-3-2001 तक लगातार 13 वर्ष 3 मास 8 दिन तक कार्य किया। प्रार्थी ने बाबकस्वेसनियो 2001 के अन्तर्गत स्वैच्छिक सेवानिवृत्ति हेतु आवेदन पेश किया जिसके क्रम में अप्रार्थी की उदयपुर शाखा के पत्र दिनांक 31-3-2001 के द्वारा प्रार्थी को बैंक समय के पश्चात् सेवानिवृत्त कर दिया, प्रार्थी का कथन है कि वह बैंक के पेंशन विनियम 1995 के अर्न्तगत पेंशन प्राप्त करने की पात्रता रखता है लेकिन अप्रार्थी ने न तो प्रार्थी को पेंशन का भुगतान किया न ही अप्राथी द्वारा पी.एफ. में अपने स्वयं के किये गये अंशदान का ही भुगतान किया है। प्रार्थी का कथन है कि उसके द्वारा कुल 13 वर्ष से अधिक की सेवा अवधि के उपरान्त भी अप्रार्थी द्वारा प्रार्थी को उसके परिलाभ से वंचित करने एवं 1-4-2001 से पेंशन नहीं दिये जाने के कृत्य को अनुचित एवं अवैध घोषित किया तथा जानबूझकर रोकी गई पेंशन राशि पर 1-4-2001 से 18 प्रतिशत की दर से ब्याज भी दिलाया जावे।

प्रार्थी की ओर से दस्तावेजी साक्ष्य में प्रार्थी का नियुक्तिपत्र दिनांक 17-12-87 पी. एफ. राशि को पेंशन फण्ड में अन्तर का विवरण अप्रार्थी का परिपत्र दिनांक 14-12-2000 तथा पेंशन विनियम 1995 व अप्रार्थी का पत्र दिनांक 16-3-2001 व 31-3-2001 की फोटोस्टेट प्रतियाँ पेश की गईं, अप्रार्थी के उपरोक्त पत्र दिनांक 16-3-2001 व 31-3-2001 के अवलोकन से यह स्पष्ट है कि अप्रार्थी द्वारा जो बाबकस्वेसनियो 2001 के अर्न्तगत स्वेच्छिक सेवानिवृत्ति हेतु आवेदन पेश किया था उसके क्रम में अप्रार्थी की उदयपुर शाखा ने प्रार्थी को 31-3-2001 को सेवानिवृत्त किया। प्रार्थी की ओर से एस.एल.आर. 2002(5) पेज 129 कुलवन्द कौर बनाम पंजाब राज्य का विनिश्चय पेश किया जिसमें कहा गया है कि एक बार जब प्रार्थी को स्वैच्छिक सेवानिवृत्ति की अनुमति दे दी है और वह स्वैच्छिक सेवानिवृत्ति पर प्रस्थान कर गया है उसके बाद प्रशासन यह नहीं कह सकता कि उसकी निश्चित सेवा पूरी नहीं हुई। यही स्थिति प्रस्तुत प्रकरण में भी है, प्रार्थी द्वारा भी स्वैच्छिक सेवानिवृत्ति का प्रार्थना-पत्र दिया जो विपक्षी द्वारा स्वीकार किया जाकर प्रार्थी को 31-3-2001 को सेवानिवृत्त किया। इस प्रकार प्रार्थी की ओर से प्रस्तुत दस्तावेजी साक्ष्य से यह स्थिति स्पष्ट है कि उसके द्वारा स्वैच्छिक सेवानिवृत्ति का प्रार्थना-पत्र दिया जिसके क्रम में विपक्षी द्वारा 31-3-2001 को उसे सेवानिवृत किया गया। प्रार्थी के माँग-पत्र व शपथ-पत्र का कोई खण्डन विपक्षी की ओर से नहीं किया गया है। अत: प्रार्थी के मांग-पत्र व शपथ-पत्र तथा दस्तावेजी साक्ष्य से प्रार्थी का स्वैच्छिक सेवानिवृति का आवेदन विपक्षी को पेश करना और उसी क्रम में विपक्षी द्वारा प्रार्थी को 31-3-2001 को सेवानिवृत करना प्रमाणित है, यह भी स्पष्ट है कि प्रार्थी द्वारा 13 वर्ष से अधिक की सेवा अवधि के उपरान्त भी अप्रार्थी द्वारा प्रार्थी को पेंशन से वंचित रखा गया है जो कृत्य अनुचित एवं अवैध है। अत: प्रार्थी विपक्षी से 1-4-2001 से पेंशन प्राप्त करने का अधिकारी है।

अधिनिर्णय

अत: यह अधिनिर्णीत किया जाता है कि अप्रार्थी नियोजक जोनल मैनेजर बैंक ऑफ बड़ोदा जोनल ऑफिस, जयपुर द्वारा प्रार्थी गणपतसिंह देवड़ा को स्वैच्छिक सेवानिवृति के आधार पर 31-3-2001 से सेवानिवृत करने के पश्चात् पेंशन का भुगतान नहीं करना अनुचित एवं अवैध है। अत: आदेशित किया जाता है कि अप्रार्थी नियोजक प्रार्थी को 1-4-2001 से नियमानुसार पेंशन अदा करे।

यह अधिनिर्णय आज दिनांक 23-10-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 25 फरवरी, 2004

का. आ. 692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जोधपुर के पंचाट (संदर्भ संख्या आई०डी० नं० 4/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-2-2004 को प्राप्त हुआ था।

[सं. एल-12012/358/2001-आई.आर. (बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 25th February, 2004

S. O. 692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No, 4/2002) of the Industrial Tribunal/ Labour Court, Jodhpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner and Jaipur and their workman, which was received by the Central Government on 24-2-2004

[No. L-12012/358/2001-IR(B.I)]

AJAY KUMAR, Desk Officer.

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय जोधपुर

पीठासीन अधिकारी :- श्रीमती निशा गुप्ता.आर.एच. जे. एस. औ०वि० (केन्द्रीय)सं०:- 04/2002

श्री हुकमसिंह जरिये अध्यक्ष अखिल भारतीय एस.बी.बी.जे कर्मचारी संघ सुराना मार्केट ब्रॉच पाली मारवाड़।

.....प्रार्थी

बनाम

दी मैनेजिंग डायरेक्टर, स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर हैड ऑफिस तिलक मार्ग जयपुर (राज.)

.....अप्रार्थी

उपस्थिति :—

(1) प्रार्थी प्रतिनिधि श्री ललित शर्मा उप०

(2) अप्रार्थी प्रतिनिधि श्री राजीव कौशिक उप०

अधिनिर्णय

दिनांक 20-10-2003

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 12012/358/2001 दिनांक 25-1-2002 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

"क्या प्रबन्ध निदेशक एस.बी.बी. जे. प्रधान कार्यालय जयपुर द्वारा श्रमिक श्री हुकमसिंह को उसकी सेवानिवृत्ति की तिथि दिनांक 31-8-1991 से पेंशन नहीं दिया जाना उचित एवं वैध है। यदि नहीं तो श्रमिक अपने नियोजक से किस राहत को पाने का अधिकारी है।"

प्रार्थी ने अपना मांग-पत्र प्रस्तुत करते हुए अभिकथित किया है कि श्रमिक की प्रारम्भिक नियुक्ति अप्रार्थी संस्थान में प्रार्थी की शैक्षणिक व तकनीकी योग्यता के आधार पर अस्थाई तौर पर दिनांक 1-5-1976 को हुई तत्पश्चात् अप्रार्थी ने प्रार्थी से 2-10-1981 तक 244 दिन कार्य लिया इसके पश्चात् प्रार्थी को 3-10-81 से स्थाई कर्मचारी के पद पर पदस्थापित कर दिया एवं प्रार्थी ने सुरक्षा प्रहरी पद के समस्त कर्तव्यों को बिना किसी व्यवधान के पूर्ण निष्ठा के साथ किया। प्रार्थी ने 1-5-1976 से 2-10-81 तक 244 दिन बतौर अस्थायी तौर पर एवं 3-10-81 से 31-8-91 तक सुरक्षा प्रहरी के रूप में कार्य किया। इस प्रकार प्रार्थी ने अप्रार्थी के अधीन कुल 10 वर्ष 7 माह 244 दिन अस्थायी सेवा एवं 9 वर्ष 10 माह एवं 27 दिन स्थायी सेवा कार्य किया। अप्रार्थी संस्थान में पेंशन भुगतान के लिए एक कर्मचारी द्वारा न्यूनतम 10 वर्ष की सेवा की जानी आवश्यक है। प्रार्थी द्वारा 10 वर्ष 7 माह की सेवा अप्रार्थी संस्थान में की गई है, प्रार्थी द्वारा की गई अस्थाई सेवा का समस्त लाभ अप्रार्थी द्वारा प्रार्थी को दे दिया गया है लेकिन प्रार्थी को पेंशन देने से स्पष्ट रूप से इन्कार कर दिया जो गैर कानूनी व अनुचित है। अन्त में निवेदन किया है कि अप्रार्थी-प्रार्थी द्वारा जारी पत्र दिनांक 13 सितम्बर 1995 को अनुचित एवं अवैध घोषित किया जाकर अप्रार्थी को निर्देशित किया जावे कि वह श्रमिक को उसकी सेवा समाप्ति की दिनांक 1-9-1991 से पेंशन मय एरियर राशि का भुगतान करे तथा रोकी गई पेंशन राशि पर ब्याज दिलाया जावे।

अप्रार्थी की ओर से जवाब प्रस्तुत किया गया जिसमें प्रारम्भिक आपत्तियों में कहा गया कि मांग-पत्र औद्योगिक विवाद (केन्द्रीय) नियम 1957 के नियमों के अनुरूप नहीं है कर्मचारी विशेष के पेंशन के अधिकार को औद्योगिक विवाद की परिभाषा में नहीं लिया जा सकता केन्द्रीय सरकार द्वारा कथित विवाद को व्यक्तिगत विवाद मानते हुए अधिकरण के समक्ष अधिनिर्णय हेतु प्रेषित किया है, प्रार्थी-अप्रार्थी संस्थान के पेंशन विनियम 1995 के प्रावधानों के तहत किसी भी रूप में पेंशन पाने का अधिकारी नहीं है, प्रार्थी की जन्म तिथि 3-8-31 के आधार पर सेवानिवृत्ति 3-8-1991 होती है। 3-10-81 से 3-8-91 तक प्रार्थी ने जब कि 62 वर्ष की आयु पूरी की तब उसकी नौकरी 9 वर्ष 10 माह ही होती है अतः वह पेंशन का हकदार नहीं है प्रार्थी श्रमिक की परिभाषा में नहीं आता यह भी कहा है कि प्रार्थी 31-8-91 को सेवानिवृत्त हुआ जब कि उसने प्रथम बार यह विवाद 2001 में अर्थात 10 वर्ष पश्चात् उठाया, तथा सेवानिवृत्ति के पश्चात् किसी भी कर्मचारी को यूनियन का सदस्य नहीं माना जा सकता, प्रार्थी ने मांग-पत्र में पेंशन ट्रस्ट को पक्षकार नहीं बनाया है। आगे जवाब में कहा है कि प्रार्थी ने 1-5-76 से 2-10-81 तक मात्र अस्थाई कर्मचारी के रूप में अप्रार्थी बैंक की कुंजबार शाखा जिला पाली में कार्य किया, प्रार्थी की स्थाई नियुक्ति बैंक के अधीन 31-10-81 को हुई और वह 31-8-91 को बैंक सेवा से सेवानिवृत्त हुआ इस प्रकार प्रार्थी बैंक के अधीन 9वर्ष 10 माह व 27 दिन ही कार्यरत रहा और उसके द्वारा 10 वर्ष की सेवा पूर्ण नहीं की, प्रार्थी द्वारा अस्थाई सेवा अवधि व स्थाई सेवा अवधि को शामिल करने का प्रयास किया गया है जब कि पेंशन के मामले में अस्थाई सेवा अवधि की कोई उपयोगिता नहीं है पेंशन हेतु अर्हक सेवा का आरंभ प्रथम बार स्थाई नियुक्ति की तिथि से ही होता है चूंकि प्रार्थी द्वारा न्यूनतम 10 वर्ष की

सेवायें अप्रार्थी बैंक में बतौर स्थाई कर्मचारी के नहीं दी गई इसलिये वह पेंशन प्राप्त करने का कतई हकदार नहीं है, प्रार्थी ने सही तथ्यों को न्यायालय से छुपाया है। यह भी कहा है कि प्रार्थी को सेवा में स्थापित करते समय स्वयं प्रार्थी द्वारा उसे अप्रार्थी द्वारा दिये गये नियुक्ति के प्रस्ताव को स्वीकार करते हुए पद संख्या 4 में यह स्पष्ट तौर से अंकित किया गया कि वह अस्थाई सेवा के लिए वेतन वृद्धि के अलावा कोई लाभ प्राप्त नहीं करेगा। प्रार्थी की उक्त स्वीकारोक्ति के परिपेक्ष्य में प्रार्थी का मांग-पत्र पूर्णतया प्रतिकूल है प्रार्थी द्वारा पेंशन का विकल्प 27-7-1994 को दिया गया एवं 13-9-95 को उसे सूचित कर दिया गया कि उसे पेंशन देय नहीं है। अन्त में निवेदन किया है कि प्रार्थी का मांग-पत्र सव्यय खारिज किया जाये।

प्रार्थी ने माँग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया जिस पर अप्रार्थी प्रतिनिधी द्वारा जिरह की गई तथा अप्रार्थी की ओर से बी. एस. जोशी का शपथ-पत्र प्रस्तुत किया जिस पर प्रार्थी प्रतिनिधी द्वारा जिरह की गई। प्रार्थी की ओर से विभिन्न दस्तावेजात की फोटो स्टेट प्रतियाँ पेश की गई।

दोनों पक्षों के प्रतिनिधिगण की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया कि उसने विपक्षी के अधीन 1-5-76 से 2-10-1981 तक 244 दिन काम किया, 3-10-81 को उसे स्थाई कर्मचारी के पद पर पदस्थापित किया गया, 31-8-91 तक इस पद पर कार्य किया और वह सेवानिवृत्त हुआ। इस प्रकार उसने स्थाई और अस्थाई सेवा को जोड़कर 10 वर्ष 7 माह काम किया, इसके बावजूद भी उसे पेंशन नहीं दी जा रही है जो त्रुटिपूर्ण है।

विपक्षी द्वारा यह कहा गया कि प्रार्थी की 244 दिन की सेवा पेंशन योग्य सेवा नहीं है, उसे नहीं जोड़ा जा सकता तथा विवाद देरी से उठाया गया है। प्रार्थी ने केवल 3-10-81 से 3-8-91 तक ही काम किया 10 वर्ष की स्थाई सेवा नहीं हुई थी अत: वह पेंशन पाने का हकदार नहीं है।

जिरह में भी दोनों पक्षों ने इन्हीं तथ्यों का उल्लेख किया है।

प्रार्थी की ओर से 13 सितम्बर 95 का आदेश पेश हुआ जिसके द्वारा प्रार्थी को पेंशन देय नहीं होने का उल्लेख किया है। प्रार्थी का यह कथन है कि उसे उसके पूर्व की सेवा देखते हुए ही सेवा में लगाया गया और इस सम्बन्ध में आदेश पेश किया है जिसमें इस बात को स्पष्ट लिखा गया है कि अस्थाई सेवा का लाभ बैंक के नियमों के अनुसार स्थाई सेवा में आने के बाद देय होगा, इस आधार पर प्रार्थी का यह कथन है कि उसकी अस्थाई सेवा जोड़ी जानी चाहिये। विपक्षी की ओर से 27 मार्च का पत्र पेश हुआ है और विपक्षी का यह कथन है कि इसमें स्पष्ट कर दिया गया था कि नियमित शृंखला में नियुक्ति के दिन से ही वरिष्ठता देय होगी।

सम्पूर्ण रिकार्ड को देखने से यह स्थिति स्पष्ट है कि प्रार्थी को उसके पूर्व की सेवा को देखते हुए ही स्थाई तौर पर सेवा में लिया गया है और इस स्थिति पर कोई विवाद नहीं है कि प्रार्थी ने 3-10-81 से अपनी स्थाई नियुक्ति के पूर्व 244 दिन की सेवा पूर्ण की थी और इस संबंध में प्रार्थी की ओर से एस.एल.आर. 1999(2) पेज 215 हरियाणा राज्य बनाम श्रीराम का विनिश्चय पेश किया जिसमें स्पष्ट किया गया है कि जहाँ कर्मचारी ने पहले अस्थाई तौर पर काम किया और फिर उसकी सेवा पुष्ट कर दी गई है तो यह सारी सेवा को जोड़कर उसकी पेंशन योग्य सेवा मानी जायेगी, इसी क्रम में एस.सी.सी. 1987 पेज 350 आर.एल. मरवाहा बनाम भारत संघ, एस.सी.सी. 1995 पेज 1365 ए.पी.श्रीवास्तव बनाम भारत संघ, एस.सी.सी. 1996 पेज 646 एम.सी.डिंगरा बनाम भारत संघ के विनिश्चय पेश किये जिनमें जहाँ लगातार सेवा है तो उसे पेंशन योग्य सेवा में माना गया है। ऐसी स्थिति में प्रार्थी की अस्थाई सेवा को पेंशन योग्य सेवा में नहीं जोड़ना निसन्देह ही त्रुटिपूर्ण है। इस सम्बन्ध में प्रार्थी का यह भी कथन है कि उसकी 9 वर्ष 10 माह की जो सेवा है उसे एक वर्ष गिना जाना चाहिये जैसा कि नियमों में प्रावधान है, इस सम्बन्ध में एस.बी.बी.जे. कर्मचारी पेंशन रेगुलेशन 1995 पेश हुए है जिसमें यह स्पष्ट किया गया है कि जहाँ सेवा छ: महीने से कम की होगी तो उस सेवा को नहीं गिना जायेगा और जहाँ सेवा छ: महीने से अधिक की होगी उसे एक वर्ष गिना जायेगा। इस प्रकार इन नियमों के अनुरूप ही प्रार्थी की सेवा जब 9 वर्ष 10 माह की हो चुकी है तो नि:सन्देह ही उसे 10 वर्ष की सेवा का लाभ दिया जाना चाहिये था। प्रार्थी को संबंधित रेगुलेशन का लाभ न दिये जाने का कोई औचित्य भी विपक्षी की ओर से नहीं बताया गया है।

इस प्रकार दोनों ही आधारों पर प्रार्थी पेंशन पाने का अधिकारी है।

विपक्षी द्वारा यह कहा गया है कि प्रार्थी द्वारा विवाद अत्यन्त देरी से उठाया गया है और ऐसी स्थिति में वह कोई अनुतोष पाने का अधिकारी नहीं है। परन्तु केवल देरी के आधार पर युक्तियुक्त अनुतोष से इन्कार नहीं किया जा सकता, विधि की यह स्थिति स्पष्ट है। एस.सी.सी.2000(2) पेज 455 ने डुगाड़ी बैंक लि. बनाम के. पी. माध्यवनकुट्टी, एस.सी.सी. 2001(1) पेज 424 इण्डियन आईरन एण्ड स्टील कम्पनी लि. बनाम प्रहलादसिंह, डब्ल्यू.एल.सी. राजस्थान 2002(1) पेज 501 डिवीजनल फोरेस्ट ऑफिसर बनाम रघुबीर के विनिश्चय पेश किये जिनमें केवल देरी के आधार पर अनुतोष से इन्कार नहीं किया गया है बल्कि गुणा व गुण पर भी विचार किया गया।

इस प्रकार प्रार्थी को 31-8-91 से पेंशन नहीं दिया जाना अनुचित और अवैध है और प्रार्थी 31-8-91 से नियमानुसार पेंशन पाने का अधिकारी है।

अधिनिर्णय

अत: यह अधिनियर्णित किया जाता है कि प्रबन्ध निदेशक एस.बी.बी.जे. प्रधान कार्यालय, जयपुर द्वारा श्रमिक श्री हुकमसिंह को उसकी सेवानिवृति की तिथि दिनांक 31-8-1991 से पेंशन नहीं दिया जाना अनुचित एवं अवैध है। अत: आदेशित किया जाता है कि अप्रार्थी प्रार्थी को 31-8-1991 से नियमानुसार पेंशन अदा करे।

यह अधिनिर्णय आज दिनांक 20-10-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 25 फरवरी, 2004

का. आ. 693 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या आई० डी० नं० 95/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-2-2004 को प्राप्त हुआ था।

[सं. एल-12012/216/2000-आई.आर. (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 25th February, 2004

S. O. 693.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 95/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 24-02-2004.

[No. L-12012/216/2000-IR(B.I)]
AJAY KUMAR, Desk Officer.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-LUCKNOW

PRESENT : SHRIKANT SHUKLA

PRESIDING OFFICER

I.D. No. 95/2000

Ref. No. L-12012/216/2000/IR (B-1) dated 11-9-2000

BETWEEN

Harish Chandra Yadav
Shri Dwarika Prasad Yadav,
20-A, Swaraj Nagar, Teliarganj
Allahabad-211006

AND

The Dy. General Manager
State Bank of India
Zonal Office, Varanasi
Varanasi (U.P. 221001)

AWARD

The Government of India, Ministry of Labour vide their order No. L-12012//216/2000/IR (B-I) dated 11-9-2000 has reffered following issue for adjudication to this Tribunal;

"WHETHER THE ACTION OF THE MANAGEMENT OF STATE BANK OF INDIA IN TERMINATING THE SERVICES OF HARISH CHANDRA YADAV W.E.F. 14-12-99 IS JUSTIFIED? IF NOT TO WHAT RELIEF THE WORKMAN IS ENTITLED FOR?"

The workman's case in brief is that he was bonafide and permanent employee of State Bank of India, Varanasi Cantt. from 2-1-97 and was posted at State Bank of India, Bamrauli, Allahabad as messanger and he worked upto 14-12-1999, but the State Bank of India, Bamrauli Allahabad verbally terminated the employment of the worker without assigning any reason and without complying with the provision of Section 25F and 25 G of the I.D. Act, 1947. The workman demanded his reinstatement, but no reply could be received from the State Bank of India. The workman finding no way out, filed application before Asstt. Labour Commissioner (C), Allahabad. It has been further requested to pass the award of reinstatement of the workman alongwith full back wages and all other benefits admissible under law.

The opposite party has filed the Written Statement and has alleged that the contents of claim statement are not correct. It is further stated that the concerned workman was never appointed as permanent employee in any capacity either as messanger or labour nor any procedure for the recruitment of such person was adopted in his case. There is a procedure prescribed for regular appointment of staff. It is specifically denied that the workman concerned worked upto 14.12.99. It is submitted by the management that he was engaged for 24 days in the month of Nov, 98 and prior to that he was not in employment in any capacity during Oct. and Sept. 1998. He was not engaged in Dec. 98 again in Jan. 99 he was engaged for 24 days only on daily wage basis as labour and there after he was engaged only 5 days in July 99 on daily wage basis as labour and then for 26 days in August 99 on daily wages basis and there after he was not engaged in any capacity in the bank. It is further stated that in fact he had approached the Branch Manager of Bamruli branch on 14-12-99 with the request for engaging him but his request was not acceded as there was no work nor any need to engage him on daily wages or any other basis. There were already 3 or 4 permanent messengers from Oct.97 and there was no permanent vacancy during 1997 to 1999. It has also been denied that the workman concemed worked for 240 days in a calander year from Dec.98 to August'99 thus the allegations that he worked for 240 days in the calander year prior to his disengagement is absolutly false and is denied. It has also been denied that the employment or engagement of the concerned workman as terminated on 14-12-99. He was not engaged after Aug.99. There was no need to assign any reason for not engaging him further after Aug.99 and in fact and circumstances of the case Section 25 of the I.D. Act are not applicable to the workman and he can not claim

any benefit of section 25F&G of the I.D. Act. 1947. Filing of application before Asstt. Labour Commissioner (c) has not been specifically denied and it is stated that concilation proceeding resulted in failute. There is no question of his reinstatement nor he had any valid claim or right to press for his reinstatement or engagement. The worker has filed rejoinder affidavit and in the rejoinder affidavit he has denied the allegations of the opposite party and has stated that the same is manipulated. The workman stated that he was in regular appointment of the bank for more than several years. He has worked for more than 240 days in each of the calander year. It is also stated that the management has compelled the workman to receive payment in the name of Nankou in place of Harish Chand Yadav for the days they are denying in their written statement and this act of the respondents is not only illegal but unwarranted also. Payment received by the workman in the name of Harish Chandra Yadav and Nankou belongs to the applicant/ workman. Worker has filed the photo state copies of the following documents;

1. Photo copy of Identity card paper no. 8
2. Photo copy of names of persons from 19 to 29 paper no. 9
3. Photo copy of letter dated 7-8-97 for issuance of gate pass paper No. 10.
4. Photo copy of letter dated 7-11-97 for issuance of canteen card paper no.11
5. Photo copy of receipt of payment by Bamrauli branch paper no. 12
6. Photo copy of account opening proforma of H.C.Yadav paper no. 13.
7. Photo copy of receipt of clearing dt. 25-1-97 paper no14.
8. Photo copy of receipt of cheque unsigned paper no15.
9. Photo copy of registration form for gas connection. paper no. 16.
10. Photo copy of account opening form paper no.17
11. Photo copy of letter dt. 20-1-99 regarding sending of messanger paper No. 18, character certificate of H.C. Yadav paper no. 18
12. Photo copy of character certificate of H.C. Yadav paper no. 19.
13. Photo copy of slip of special term deposit of Rs. 5000/- paper no. 20
14. Photo copy of bankers cheque issued to Ramesh General Store for Rs. 780/- dated 7-12-99. paper no. 21
15. Photo copy of receipt of labour charges for 12 days from 16-10-99 to 31-10-99 paper no. 22.
16. Photo copy of bankers cheque in the name of H.C.Yadav amounting to Rs. 600/- paper no. 23.
17. Photo copy of bankers cheque dated 5-5-97 in the name of H.C. Yadav paper no. 24.
18. Photo copy of bank deposit receipt dt. 8-1-98, 7-4-98 and 3-2-98 . paper no. 25, 26 & 27.
19. Photo copy of authority letter in respect of H.C.Yadav, dated 11-3-99 paper no. 28.
20. Photo copy of bank pay slip dt. 3-2-98 paper no. 29.
21. Photo copy of receipt of labour charges from 1-1-98 to 15-1-98 for 13 days @ Rs. 30/- per day paper no. 30.
22. Photo copy of labour charges from 16-1-97 to 31-1-97 for 13 days @ Rs. 30/- per day amounting to Rs. 390/- paper no. 31.
23. Affidavit of H. C. Yadav.

The worker has also filed debit slip of Rs. 780/-dated 15-7-98 to 16-7-98 labour charges for 26 days from 1-6-98 to 30-6-98 @ Rs. 30/- per day amounting to Rs. 780/- corresponding to debit slip dt. 15-7-98 debit slip dt. 12-12-98 for Rs. 90/-, Saving Bank account pay slip amounting to Rs. 90/-, labour charges dt. 21-11-98 to 28-11-98 and 30-11-98 for 3 days for Rs. 90/-, debit slip dt. 12-6-98 for Rs. 720/-transfer of bankers cheque application form Rs. 720/- copy of bankers cheque Rs. 720/- dated 12-6-98.

The worker ha s also filed the Saving Bank account pay slip labour charges of 1-5-98 to 30-5-98 for 24 days debit account slip dt. 12-6-98 and bankers cheque dated 6-2-98 Rs. 330/- and related debit slip of the same amount.

The worker has also filed the receipt of 330/- from 16-1-99 to 30-1-99 together with the receipt of Suman Photo State Centre.

The worker has also filed the debit slip of Rs. 390/- dated 10-2-98 besides to receipt showing 6 days labour charges and 7 days labour charges in Jan. 99.

The opposit party has filed photo state copies of the following documents:

1. Photo copy of labour charges dt. 4-1-97 to 20-1-97—13 days.
2. Photo copy of labour charges dt. 21-1-97 to 30-1-97—9 days.
3. Photo copy of labour charges dt. 1-2-97 to 14-2-97—12 days.

4. Photo copy of labour charges dt. 15-2-97 to 28-2-97 12 days.

5. Photo copy of labour charges dt. 1-4-97 to 15-4-97 12 days.

6. Photo copy of labour charges dt. 16-4-97 to 30-4-97 12 days.

7. Photo copy of labour charges dt. 1-6-97 to 15-6-97 13 days.

8. Photo copy of labour charges dt. 16-6-97 to 30-6-97 13 days.

9. Photo copy of labour charges dt. 1-5-97 to 15-5-97 13 days.

10. Photo copy of labour charges dt. 16-5-97 to 31-5-97 12 days.

11. Photo copy of labour charges dt. 1-11-97 to 15-11-97 12 days.

12. Photo copy of labour charges dt. 16-11-97 to 30-11-97 12 days.

13. Photo copy of labour charges dt. 16-8-97 to 31-8-97 12 days.

14. Photo copy of labour charges dt. 1-8-97 to 15-8-97 12 days.

15. Photo copy of labour charges dt. 16-9-97 to 30-9-97 12 days.

16. Photo copy of labour charges dt. 1-9-97 to 15-9-97 13 days.

17. Photo copy of labour charges dt. 16-1-97 to 31-1-97 13 days.

18. Photo copy of labour charges dt. 1-1-98 to 15-1-98 13 days.

19. Photo copy of labour charges dt. 16-1-97 to 31-1-97 13 days.

20. Photo copy of labour charges dt. 1-7-97 to 15-7-97 13 days.

21. Photo copy of labour charges dt. 16-12-97 to 31-12 -97 14 days.

22. Photo copy of labour charges dt. 1-12-97 to 15 -12-97 13 days.

23. Photo copy of labour charges dt. 16-10-97 to 31-10-97 12 days.

24. Photo copy of labour charges dt. 1-10-97 to 15-10-97 12 days.

25. Photo copy of labour charges dt. 6-1-98 to 7-1-98 2 days.

26. Photo copy of labour charges dt. 1-2-98 to 15-2-98 12 days.

27. Photo copy of labour charges dt. 16-2-98 to 26-2-98 13 days.

28. Photo copy of labour charges dt. 9-3-98 to 10-3-98 1 days.

29. Photo copy of labour charges for 15-4-98.

30. Photo copy of labour charges for 22-4-98.

31. Photo copy of labour charges for 21-4-98.

32. Photo copy of labour charges dt. 2-3-98 to 7-3-98, 9-3-98 to 11-3-98, 14-3-98, 16-3-98, 21-3-98.

Photo copy of labour charges dt. 23-3-98 to 28-3-98 total 24 days.

33. Photo copy of labour charges dt. 2-4-98, 4-4-98, 6-7-98, 7-7-98, 11-4-98 to 13-4-98, 15-4-98 to 17-4-98, 18-4-98 to 20-4-98, 21-4-98, 22-4-98 to 25-4-98, 27-4-98 to 30-4-98 total 22 days.

34. Photo copy of labour charges for 23-5-98, 22-5-98, 23-4-98, 8-5-98, 9-5-98, 4-5-98, 1-5-98, 2-5-98, 4-5-98, 5-5-98, to 30-5-98 with break total 24 days.

35. Labour charges for working in cash dt. 10-6-98, 11-6-98, 15-6-98, 19-6-98.

36. Labour charges for filling water in cooler from 1-6-98 to 30-6-98 for 26 days.

37. Labour charges for safaiwala dt. 5-7-99.

38. Labour charges for working in cash on 11-7-98, 10-7-98.

39. Labour charges filling water and cleaning on 13-7-98.

40. Labour charges for cleaning and gardening dt.4-7-98, 3-7-98, 2-7-98.

41. Labour receipet charges dt. 1-7-98 to 31-7-98 for 26 days @ Rs. 30/- per days.

42. Working in cash labour charges dt. 24-7-98

43. Labour charges for working for whole day on 20-7-98.

44. Labour charges for working dt. 23-7-98.

45. Labour charges for 29-7-98, July 98, 30-7-98, 21-7-98, 22-7-98, 10-8-98.

46. Labour charges for 24 days in Sept.. 98.

47. Labour charges for working in cash 14-9-98, 15-9-98, 31-3-98, 30-3-98, 31-3-99, 20-10-99, 22-11-99.

48. Labour charges for 15-9-98, 23-8-98, 2-9-98, 1-9-98, 31-8-98, 3-11-98, 11-11-98, 19-11-98, to 21-11-98.

49. Labour charges from 23-11-98 to 26-11-98 7 days.

50. Labour charges from 2-11-98 to 3-11-98.

51. Labour charges for 27-11-98 to 28-11-98, 30-11-98 3 days.

52. Labour charges for 12-11-98 to 14-11-98, 16-11-98, 18-11-98 6 days.

53. Labour charges for cleaning and gardening and working in record room for 3 days dt. 1-1-99 @Rs. 45/- per day.

54. Labour charges for 1-1-99, 2-1-99, 4-1-99, to 7-1-99 for 6 days.

55. Labour charges for 8-1-99 to 15-11-99 with break for 7 days

56. Labour charges for 16-1-99 to 30-1-99 with break for 10 days

57. Labour charges for 1-7-99 to 12-7-99 with break for 10 days

58. Labour charges for 13-8-98 to 31-8-98 16 days.

59. Labour charges for 2-9-99 to 12-2-99 10 days.

The bank has also filed various memos regarding purchase and payment of misc. items to the worker.

While filing the vouchers bank has filed the vouchers pertaining to H. C. Yadav and Nanku Ram.

The bank has also filed affidavit of Sant Pal Singh along with the account of Harish Chandra Yadav from 97 to 98 together with the statement of account of transacation in account no. 1190/22360 of Harish Chandra Yadav from 20-2-98 to 15-10-2001.

The witness of the worker and the bank has been cross examined by each other.

Heard learned counsel for the parties and peruse the record.

From the entire documents submitted it is evident that the worker was not a permanent or regular employee as alleged by him in the statment of claim.

It is also admitted fact that no written appointment letter was issued to the worker. According to worker himself he went personally and requested for appointment. In his cross examination he has also admitted that he was on daily wager.

The worker has also adimitted his engagement in the following manner.

1. Worker admits working for 24 days in Nov. 98.

2. Worker admits that he worked from 14-1-99 to Dec. 99 continuously but at the same time he states that he worked only in Nov. 98., Jan. 99 for 24 days.

However, it is admitted fact that he is not a permanent employees of the bank as he has tried to state in the statement of claim. In the circusmstances of the case the case is false to the extent that the worker has worked as permanent employee of the bank.

On the other hand the Sant Pal Singh, Branch Manager State Bank of India strates that the worker has not worked for 240 days in any calander year.

It is also admitted fact that no attendance register maintained for daily wager in the bank. He has also stated that the labour charges paid on the bills submitted by them depending upon the working days and the labours are engaged according to the work available and such payments are made to the labour from the contigency fund.

Now the question for determination is as to how many days the worker Harish Chandra Yadav has actually worked in the bank and whether he has worked for 240 days in a calander year.

From the record produced before the court the worker H.C. Yadav has worked in 1997 as under;

1.	Jan. 1997	22 days
2.	Feb. 1997	24 days
3.	April. 1997	24 days
4.	May 1997	26 days
5.	June 1997	26 days
6.	July 1997	26 days
7.	Aug. 1997	22 days
8.	Sept. 1997	25 days
9.	Oct. 1997	22 days
10.	Nov. 1997	24 days
11.	Dec. 1997	27 days
		268 days
1.	Jan. 1998	26 days
2.	Feb. 1998	25 days
3.	March, 1998	24 days
4.	April, 1998	22 days

5.	May 1998	NIL
6.	June 1998	26 days
7.	July 1998	01 days
8.	Aug. 1998	01 days
9.	Sept. 1998	02 days
10.	Oct. 1998	01 days
11.	Nov. 1998	14 days
12.	Dec. 1998	NIL
		142 days
	July 1999	12 days
	Aug. 1999	26 days
	Sept. 1999	01 days
	Oct. 1999	01 days
	Nov. 1999	NIL
	Dec. 1999	NIL
		40 days

The worker has filed the debit voucher slip dated 15-7-98 together with bankers cheque of 16-7-98 amounting to Rs. 789/. These documents have no help to the worker as this refers to amount for 26 days. It is evident from the above that he worked for 26 days in July of which the payment is made to him. Similarly he has filed the photo copy of documents filed by the management for Rs. 780/-.

H.C. Yadav has worked for 14 days in Nov. 98 and he has tried place before the Court the bill of Nanku with the debit slip and bankers cheque. When bills are already on record then there is no ambiguity in ascertain the number of days the worker has worked in the bank.

The worker has tried to argue that the bank manager use to pressurise him to receive the amount in the name of Nanku and he use to sign under pressure. This argument is not tenable. Worker is not expected to himself sign the documents as Nanku. This amounts to impersonation and a person who says that he received the amount in the name of Nanku can not be believed that he speaks true.

Issuance of the I.D. card for security reasons does not help the workman. Identity card is meant for incoming of a person to the Air Force premises. Admittedly he is not a permanent employee as he has tried to say so in the court. Therefore, submission of identity card and related documents do not help him. Similarly H.C. Yadav the workman has opened his account in the bank. The bank account is already on record. It also does not help the workman.

Issue referred to the court is "WHETHER THE ACTION OF THE MANAGEMENT OF STATE BANK OF INDIA IN TERMINATING THE SERVICES OF HARISH CHANDRA YADAV W.E.F. 14-12-99 IS JUSTIFIED? IF NOT TO WHAT RELIEF THE WORKMAN IS ENTITLED FOR?'

Thus the worker has failed prove that he was in service till 13-12-99 and a very heavy burden is on the worker to prove that he worked till 13-12-99 in the bank. The worker has not uttered a single word that he worked upto 13-12-99 and he was not paid salary. The worker has not filed any corroborative facts that he worked till 13-12-99. The worker has filed in the court photo copy of the special term deposit paying slip Rs. 5000/- under reinvestment plan. This does not help the worker that he worked in the bank till 13-12-99.

This court can not go beyond the issue referred to this court. From the careful scrutiny of the entire record I come to the conclusion that the worker has not worked till 13-12-99 as he alleges in the statement of claim and para above shows the worker has not been engaged in the job in Dec. 99.

From the perusal of all payments vouchers before me I come to the conclusion that worker was engaged for 268 days in the calendar year 1997 and 142 days 1998 and 40 day in 1999.

The learned counsel for the bank has argued that the casual labours are required in case of emergency to meet the exigencies of the work has got to be executed without appointing a regular labour and to meet exigencies the casual labours are detailed and they are paid according to the nature of the work. No regular prescribed procedure is followed to meet such tasks and labour charges is paid according to the nature of the work. He has pointed out that whenever H.C. Yadav was employed in side the cash then he was paid more than the regular Labour charges. Sometimes he was paid Rs. 35/- sometimes Rs. 45/- Although labour was available in Rs. 30/- only.

From the perusal of all evidence I come to the conclusion that the worker was engage to meet the exigencies of work in the bank as and when there was need and the worker was available to meet the requirement. The worker has failed to establish that he was terminated on 14-12-99. Although the worker worked for more than 240 days in the year 1997 but he was not terminated on 14-12-99 as alleged by him. Therefore there is no question of justification or illegality. The issue is therefore accordingly disposed of and I come to the conclusion that the worker is not entitled for any relief whatsoever.

LUCKNOW:
12-2-2004

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 26 फरवरी, 2004

का. आ. 694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राज. स्टेट

मिनरल डवलपमेंट कार्पो. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-2-2004 को प्राप्त हुआ था।

[सं. एल-29012/93/2000-आई.आर. (एम.)]

बी० एम० डेविड, अवर सचिव

New Delhi, the 26th February, 2004

S. O. 694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Rajasthan State Mineral Development Corp. Ltd. and their workman, which was received by the Central Government on 25-02-2004.

[No. L-29012/93/2000-IR(M)]

B. M. DAVID, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर

पीठासीन अधिकारी :- श्रीमती निशा गुप्ता ,आर.एच. जे. एस. औ०वि० (केन्द्रीय)सं० :- 19/2001

श्रीमती समधा पत्नी श्री मुल्तानराम बेलदार, निवासी जैसलमेर।

.....प्रार्थीनी

बनाम

राजस्थान स्टेट माईन्स एण्ड मिनरल्स लिमिटेड (आर. एस. एम. एम. लि.)

.....अप्रार्थी

उपस्थिति :—

(1) प्रार्थीनी स्वयं या उसका कोई प्रतिनिधी हाजिर नहीं।

(2) अप्रार्थी प्रतिनिधी श्री खेमाराम चौधरी उप.

अधिनिर्णय

दिनांक 23-10-2003

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रमांक एल.-29012/93/2000 आई.आर. (एम.) दिनांक 30-1-2001 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

"Whether the termination of services of Smt. Samdha W/o Shri Multanram Ex. Sahayak Karamchari by the management of R.S.M.D.C.Ltd. Jaipur by way of Voluntary Retirement Scheme w.e.f. 31-10-97 is legal and justified? If not, to what relief is workman concerned entitled ?"

उपरोक्त विवाद इस न्यायालय में प्राप्त होने पर दर्ज रजिस्टर्ड किया जाकर पक्षकारों को जरिये नोटिस आहुत किया गया। प्रार्थीनी ने अपना माँग-पत्र प्रस्तुत किया जिसका जवाब विपक्षी की ओर से दिया गया, प्रार्थीनी ने माँग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया तथा अप्रार्थी की ओर से जवाब के समर्थन में मंगलाराम का शपथ-पत्र प्रस्तुत किया व यह प्रकरण वास्ते जिरह प्रार्थीनी हेतु आज नियत् किया गया लेकिन आज प्रार्थीनी स्वयं या उसका कोई प्रतिनिधी हाजिर नहीं है जिससे यही प्रकट होता है कि प्रार्थीनी इस विवाद को आगे चलाने में कोई रूचि नहीं रखती है तथा उसके व अप्रार्थी के मध्य अब कोई विवाद शेष नहीं रह गया है। अत: समस्त तथ्यों एवं परिस्थितियों को देखते हुए इस प्रकरण में कोई विवाद नहीं रह जाने का अधिनिर्णय (नो डिस्प्युट एवार्ड) पारित किया जाता है।

यह अधिनिर्णय आज दिनांक 23-10-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 26 फरवरी, 2004

का. आ. 695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं. राज. स्टेट मिनरल डवलपमेंट कार्पो. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-2-2004 को प्राप्त हुआ था।

[सं. एल-29012/52/2000-आई.आर. (एम.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th February, 2004

S. O. 695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Rajasthan State Mineral Development Corp. Ltd. and their workmen, which was received by the Central Government on 25-02-2004.

[No. L-29012/52/2000-IR(M)]

B. M. DAVID, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर

पीठासीन अधिकारी :- श्रीमती निशा गुप्ता,आर.एच. जे. एस. औ०वि० (केन्द्रीय) सं.:— 02/2001

श्री मोहब्बत खान पुत्र श्री नूरे खाँ निवासी बांधा, जैसलमेर।

.....प्रार्थी

बनाम

राजस्थान स्टेट माईन्स एण्ड मिनरल डेवलपमेन्ट कॉरपोरेशन लिमिटेड (आर. एस. एम. एम. लि.)

.....अप्रार्थी

पस्थिति :

1) प्रार्थी प्रतिनिधी श्री एल.डी. खत्री उप.

(2) अप्रार्थी प्रतिनिधी श्री खेमाराम उप.

अधिनिर्णय

दिनांक 10-10-2003

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 29012/52/2000/आई.आर. (एम.) दिनांक 11-9-2000 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

"Whether the termination of services of Shri Mohabbat Khan by the management of R.S.M.D.C.Ltd. Jaipur, by way of Voluntary Retirement Scheme w.e.f. 30-9-98 is legal and justified? If not, what relief the workman is entitled ?"

प्रार्थी ने अपना माँग-पत्र प्रस्तुत करते हुए अभिकथित किया कि प्रार्थी को 14 वर्ष पूर्व अस्थाई तौर पर आर.एम.डब्ल्यू के पद पर विपक्षी संस्थान में नियुक्ति दी, प्रार्थी के कार्य से सन्तुष्ट होकर आदेश दिनांक 12-1-93 से प्रार्थी को 1-10-92 से नियमित किया, अप्रार्थी ने वर्ष 1996 में प्रार्थी व अन्य कर्मचारियों की अवैधानिक रूप से सेवा समाप्ति की योजना बनाकर एक स्वैच्छिक सेवानिवृति योजना शुरू की, प्रार्थी को दिसम्बर 1996 में सेवानिवृत किया गया जिस पर प्रार्थी ने माननीय उच्च न्यायालय में रिट याचिका पेश की जो स्वीकार की गई और प्रार्थी द्वारा दिये गये सेवानिवृति हेतु प्रार्थना-पत्र को विड्रा करने के प्रार्थना-पत्र को स्वीकार करने का आदेश पारित किया, जिसकी पालना में अप्रार्थी द्वारा दिनांक 13-8-98 के आदेश द्वारा प्रार्थी का स्वैच्छिक सेवानिवृति प्रार्थना-पत्र विड्रा करने का निवेदन स्वीकार कर प्रार्थी को पुन: सेवा में लिये जाने का आदेश पारित किया तथा प्रार्थी के साथ चार अन्यों को भी पुन: सेवा में लिया गया तथा सोनू लाईम साईन्स पर उपस्थित होने का निर्देश दिया, प्रार्थी ने अपनी उपस्थिति दी लेकिन अप्रार्थी ने प्रार्थी द्वारा माननीय उच्च न्यायालय में की गई कार्यवाही से क्षुब्ध होकर प्रार्थी को तंग व परेशान करने के उद्देश्य से 20-8-98 को स्थानान्तरण हनुमानगढ़ कर दिया जहाँ प्रार्थी ने अपनी सेवाएँ दी तत्पश्चात्, 4-9-98 को प्रार्थी का स्थानान्तरण जिप्सम खदान पल्लू कर दिया जिस पर प्रार्थी ने अप्रार्थी से पूछा तो अप्रार्थी के अधिकारियों ने बताया कि आप स्वैच्छिक सेवानिवृति लेते है तो आपकी बात मान ली जायेगी अन्यथा आपको यों ही परेशान किया जायेगा उक्त परिस्थितियों में दबाव में आकर प्रार्थी से जबरदस्ती 16-9-98 को सेवानिवृति का प्रार्थना-पत्र लिया, उक्त प्रार्थना-पत्र सशर्त था लेकिन अप्रार्थी शर्त मानने हेतु तैयार नहीं था अत: प्रार्थी ने 22-10-98 को अपना प्रार्थना पत्र वापस उठाने का निवेदन किया लेकिन इसके बावजूद भी अप्रार्थी ने प्रार्थी की सेवाएं समाप्त कर दी जो अनफेयर लेबर प्रेक्टिस की तारीफ में आता है। यह भी कहा है कि उससे कई कनिष्ठ श्रमिकों को विभाग में रखा गया है अत: अप्रार्थी द्वारा धारा 25-जी एंव एच का उल्लंघन किया गया है। प्रार्थी द्वारा पेश प्रार्थना-पत्र में माँगी गई राशि रुपये 25,000/- एंव बोनस 5,000/- रुपये का भुगतान आज दिन तक नहीं किया गया है ऐसी स्थिति में प्रार्थी द्वारा प्रस्तुत प्रार्थना-पत्र के आधार पर की गई सेवामुक्ति अवैध है। अन्त में निवेदन किया है कि प्रार्थी की सेवा मुक्ति दिनांक 30-9-98 को अवैध व अनुचित घोषित किया जाकर प्रार्थी को समस्त लाभों सहित सेवा में लिये जाने का आदेश पारित किया जाए।

अप्रार्थी की ओर से जवाब में कहा गया है कि अप्रार्थी द्वारा प्रार्थी को 1996 में अवैधानिक तौर पर पदच्युत नहीं किया गया, प्रार्थी को माननीय उच्च न्यायालय के आदेशानुसार पुन: सेवा में रखा गया था तथा प्रशासनिक आवश्यकता अनुसार स्थानान्तरित किया गया था, प्रार्थी ने बिना किसी दबाव के स्वैच्छिक सेवानिवृति हेतु 16-9-98 को प्रार्थना पत्र प्रस्तुत कर स्वैच्छिक सेवानिवृति योजना के तहत सेवानिवृति हेतु निवेदन किया था जिसे अप्रार्थी संस्थान ने 22-9-98 के आदेश द्वारा स्वीकार कर प्रार्थी को 30-9-98 से स्वैच्छिक सेवानिवृति प्रदान कर कार्यमुक्त किया, प्रार्थी ने स्वैच्छिक सेवानिवृति प्रार्थना-पत्र वापस लेने का कोई प्रार्थना पत्र नहीं दिया, अप्रार्थी द्वारा प्रार्थी की समस्त शर्तें मानते हुए स्वेच्छिक सेवानिवृति की गई, प्रार्थी ने स्वैच्छिक सेवानिवृति के तमाम लाभ अर्जित करने के पश्चात् यह विवाद प्रस्तुत किया है जो पोषणीय नहीं है, अप्रार्थी संस्थान में स्वैच्छिक सेवानिवृति के संबध में प्रार्थी की कोई राशि बकाया नहीं है, प्रार्थी को नौकरी से नहीं निकाला बल्कि स्वैच्छिक सेवानिवृति के तहत सेवानिवृत किया गया है। अन्त में निवेदन किया है कि प्रार्थी का माँग-पत्र में खर्चे खारिज किया जाए।

प्रार्थी ने माँग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया जिस पर अप्रार्थी प्रतिनिधी द्वारा जिरह की गई तथा अप्रार्थी की ओर से मंगलाराम का शपथ-पत्र प्रस्तुत किया जिस पर प्रार्थी प्रतिनिधी द्वारा जिरह की गई। प्रार्थी की ओर से विभिन्न दस्तावेजात की प्रतियाँ पेश की गई।

दोनों पक्षों के प्रतिनिधीगण की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया कि वह विपक्षी के अधीन लगातार कार्य कर रहा था, 1996 में भी उसे सेवानिवृत कर दिया था जिसके सम्बन्ध में उसने रिट याचिका पेश की और माननीय राजस्थान उच्च न्यायालय के आदेश से उसने अपनी स्वैच्छिक सेवानिवृति का प्रार्थना-पत्र वापस ले लिया फिर तंग करने के उद्देश्य से प्रार्थी का दो बार स्थानान्तरण कर दिया फिर उससे दबाव से सेवानिवृति का प्रार्थना-पत्र लिया जो उसने वापस ले लिया इसके बावजूद भी उसकी सेवाएँ समाप्त कर दी गई, उसने सशर्त प्रार्थना-पत्र दिया था, उन शर्तों की भी पालना नहीं की गई है। इस प्रकार उसकी सेवानिवृति अवैध और अनुचित है।

विपक्षी द्वारा यह कहा गया है कि प्रार्थी को कभी भी तंग व परेशान नहीं किया गया, प्रशासनिक कारणों से स्थानान्तरण किया गया था, प्रार्थी ने स्वयं ही स्वैच्छा से सेवानिवृति का प्रार्थना-पत्र दिया था जो स्वीकार करते हुए उसे कार्यमुक्त कर दिया गया, त्याग-पत्र वापस लेने का उसने कोई प्रार्थना-पत्र नहीं दिया और इस प्रकार प्रार्थी की सेवाएँ सही तौर पर समाप्त की गई है।

प्रार्थी द्वारा अपनी जिरह में यह कथन किया कि स्वेच्छिक सेवानिवृति की योजना चली थी, मैंने भी प्रार्थना-पत्र दिया था और जो मन्जूर हो गया 80,000/ रुपये उसे मिले थें उसका यह कथन है कि उसने जबरन दस्तख्त कराने की रिपोर्ट पुलिस में नहीं की।

विपक्षी की ओर से मंगलाराम सहायक मैनेजर पेश हुए है जिसका यह कथन है कि प्रार्थना-पत्र के अनुरूप शर्तें पूरी कर आदेश पारित किया गया था।

प्रार्थी की ओर से सेवानिवृति के प्रार्थना-पत्र को वापस लेने के संबंध में प्रार्थना-पत्र की प्रति पेश हुई है परन्तु यह विपक्षी को कभी प्राप्त हुआ हो ऐसी कोई स्थिति प्रस्तुत नहीं हुई है। यह विपक्षी को किस प्रकार भेजा गया ऐसी कोई स्थिति भी पेश नहीं हुई है प्रार्थी का ट्रॉंस्फर से संबंधित आदेश पेश हुआ है जिसका प्रस्तुत प्रकरण में कोई महत्व नहीं है। पूर्व में रिट याचिका के आधार पर प्रार्थी को त्याग-पत्र वापस लेने की अनुमति दी गई वह आदेश पेश हुआ है। पूर्व की रिट याचिका में दिये गये आदेश की प्रति भी पेश हुई है।

प्रार्थी का यह कथन है कि 16-9-98 को उसने सेवानिवृति का प्रार्थना-पत्र दिया था उसका यह कथन है कि यह उससे जबरन लिखवाया गया था परन्तु जबरन लिखवाने की उसने कोई रिपोर्ट नहीं की है, किसने जबरन लिखवाया ऐसी कोई स्थिति प्रस्तुत नहीं हुई है। यह स्थिति भी स्पष्ट है कि प्रार्थी को 30-9-98 को त्याग-पत्र के आधार पर सेवानिवृत किया गया है प्रार्थी का यह कथन है कि उसने 22-10-98 को त्याग-पत्र वापस लेने का प्रार्थना-पत्र दिया था उसकी प्रति भी पत्रावली पर पेश की है और उसकी पोस्टल रसीदें भी पेश की हैं परन्तु जब प्रार्थी द्वारा दिया गया प्रार्थना-पत्र 30-9-98 से ही प्रभावी हो कर उसे सेवानिवृत किया जा चुका था तो फिर उसे वापस लिये जाने का कोई अवसर प्रार्थी के पास नहीं रह गया था। इस प्रकार 22-10-98 को प्रार्थी ने यदि कोई प्रार्थना-पत्र दिया है तो वह महत्वहीन है।

प्रार्थी का यह कथन है कि उसका प्रार्थना-पत्र सशर्त था प्रार्थना-पत्र की कोई प्रति न्यायालय के समक्ष पेश नहीं हुई है क्या शर्तें पूरी नहीं की गई ऐसी कोई स्थिति भी शपथ-पत्र और जिरह में नहीं बताई गई है।

इस प्रकार सम्पूर्ण साक्ष्य से यह स्थिति स्पष्ट है कि प्रार्थी स्वंय द्वारा प्रार्थना-पत्र देने पर प्रार्थी की सेवानिवृति की गई है उसने उसे वापस लेने का प्रार्थना-पत्र कभी दिया हो ऐसी स्थिति साबित नहीं है साथ ही प्रार्थी द्वारा सेवानिवृति से संबंधित परिलाभ प्राप्त कर लिये गये हैं और विपक्षी द्वारा प्रस्तुत विनिश्चय एस.वी. सिविल रिट पिटीशन नम्बर 3650/98 अम्बावा बनाम आर.एस.एम.डी.सी. में स्पष्ट तौर से माननीय राजस्थान उच्च न्यायालय द्वारा यह निर्धारित किया गया है कि जहाँ प्रार्थी ने सेवानिवृति के सम्बन्ध में परिलाभों को प्राप्त कर लिया है तो उसे सेवानिवृति के आदेश को चुनौती देने का कोई अधिकार नहीं है। इसी प्रकार विपक्षी की ओर से औद्योगिक विवाद संख्या 11/2000 को इस न्यायालय का निर्णय पेश किया गया है परन्तु उक्त निर्णय प्रकरण के विशिष्ठ तथ्यों के आधार पर दिया गया है और उससे विपक्षी को कोई लाभ नहीं पहुंचता।

इस प्रकार प्रार्थी की सेवानिवृति स्वैच्छिक सेवानिवृति योजना के अन्तर्गत उचित प्रकार से की गई है और प्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है।

अधिनिर्णय

अत: यह अधिनिर्णित किया जाता है कि प्रार्थी मोहब्बत खान पुत्र श्री नूरे खाँ निवासी बांधा, जैसलमेर की सेवानिवृति स्वेच्छिक सेवानिवृति योजना के अन्तर्गत उचित प्रकार से की गई है अत: प्रार्थी अप्रार्थी नियोजक राज. स्टेट माईन्स एण्ड मिनरल लि. (आर.एस.एम.एम. लि.) से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

यह अधिनिर्णय आज दिनांक 10-10-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 26 फरवरी, 2004

का. आ. 696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. राज. स्टेट मिनरल डवलपमेंट कार्पो. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-2-2004 को प्राप्त हुआ था।

[सं. एल-29012/37/2000-आई.आर. (एम.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th February, 2004

S. O. 696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Rajasthan State Mineral Development Corp. Ltd. and their workmen, which was received by the Central Government on 25-02-2004.

[No. L-29012/37/2000-IR(M)]

B.M. DAVID, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर

पीठासीन अधिकारी :- श्रीमती निशा गुप्ता.आर.एच. जे. एस. औ०वि० (केन्द्रीय सं. 10/2001)

श्री पकीराराम पुत्र श्री खुगलराम मेघवाल नि. गांव सोनू जिला जैसलमेर।

.....प्रार्थी

बनाम

राजस्थान स्टेट माईन्स एण्ड मिनरल डेवलपमेंट कारपोरेशन लिमिटेड (आर. एस. एम. एम. लि.)

.....अप्रार्थी

उपस्थितिः-

(1) प्रार्थी प्रतिनिधि श्री एल.डी. खत्री उप.

(2) अप्रार्थी प्रतिनिधि श्री खेमाराम उप.

अधिनिर्णय

दिनांक 10-10-2003

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 29012/37/2000 आई.आर. (एम.) दिनांक 17-8-2000 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

> "Whether the termination of services of Shri. Fakira Ram S/o Khushala Ram Ex. Sahayak Karamchari by the management of R.S.M.D.C.Ltd. Jaipur by way of Voluntary Retirement Scheme w.e.f. 31-3-98 is legal and justified? If not, to what relief is workman concerned entitled ?

प्रार्थी ने माँग-पत्र प्रस्तुत करते हुए कहा है कि अप्रार्थी ने सोनू लाईम स्टोन प्रोजेक्ट पर कार्य करने हेतु 1989 में कर्मचारियों/श्रमिकों को आवश्यकता अनुसार आवेदन करने पर सेवा में रखा, प्रार्थी ने भी अपना आवेदन दिया जिस पर निगम ने उसे अपने अधीन आर.एम.डब्ल्यू. के पद पर अस्थाई तौर पर नियुक्त किया, प्रार्थी को उक्त पद पर नियमित करने हेतु 12-1-93 को आदेश जारी किया गया। सन् 1998 में प्रार्थी व अन्य कई सहयोगियों की सेवामुक्ति बदनियति से करने हेतु अप्रार्थी ने एक स्वेच्छिक सेवानिवृति योजना तैयार की जिसके अनुसार प्रार्थी जो कि एक अनपढ़ व्यक्ति है, से स्वेच्छिक सेनानिवृति हेतु प्रार्थना-पत्र माँगा जिस पर प्रार्थी ने 12-1-98 को सशर्त स्वेच्छिक त्याग-पत्र अप्रार्थी के समक्ष पेश किया, अप्रार्थी ने जो स्वेच्छिक सेवानिवृति योजना तैयार की थी उसके नियमों के तहत प्रार्थी का मामला नहीं आता था फिर भी प्रार्थी को अवैध सेवानिवृति के षडयंत्र के अर्न्तगत प्रार्थना-पत्र ले लिया जब प्रार्थी को उक्त षडयंत्र का पता चला तो उसने विपक्षी के समक्ष 5-2-98 व 3-4-98 को प्रार्थना-पत्र पेश कर प्रार्थना-पत्र वापस उठा लिया। प्रार्थी द्वारा पेश स्वेच्छिक सेवानिवृति प्रार्थना-पत्र में लिखी गई शर्तों की पालना नहीं करते हुए अप्रार्थी ने 28-3-98 के आदेश से प्रार्थी की सेवाएँ 31-3-98 को समाप्त कर दी जब कि प्रार्थी ने अपने प्रार्थना-पत्र में 30-4-98 से अपनी सेवानिवृत्ति माँगी थी, प्रार्थी की सेवानिवृत्ति आ.वि. अधिनियम की धारा 25-जी एवं 25-एफ का सीधा उल्लंघन है, प्रार्थी को ऐसी कार्यवाही के समय दबाव में डालकर कुछ खाली पन्नों पर हस्ताक्षर करवा लिये जो अफेयर लेबर प्रेक्टिस के अन्तर्गत आता है। प्रार्थी का कथन है कि उसे दी गई सेवानिवृति अवैध है। अन्त में निवेदन किया है कि प्रार्थी के विरूद्ध अप्रार्थी द्वारा की गई सेवा निवृति 31-3-98 को अवैधानिक घोषित किया जाकर प्रार्थी को लगातार सेवाओं में मानते हुए मिलने वाले समस्त लाभ दिलाये जावें।

अप्रार्थी की ओर से जवाब में कहा गया कि प्रार्थी ने स्वेच्छिक सेवानिवृति योजना को भली-भाँति समझने के पश्चात् बिना किसी दबाव के स्वेच्छा से स्वेच्छिक सेवानिवृति हेतु 12-1-98 को प्रार्थना-पत्र प्रस्तुत किय, जिसमें प्रार्थी ने 31-3-98 से स्वेच्छिक सेवानिवृति चाही थी जिसे निगम ने 23-1-98 को स्वीकृति प्रदान की, प्रार्थी द्वारा प्रस्तुत स्वेच्छिक सेवानिवृति प्रार्थना-पत्र की सभी शर्तों को मानकर उसको भुगतान किया गया था, प्रार्थी को सेवानिवृति के तमाम लाभों को भुगतान कर दिया गया है, प्रार्थी ने सभी लाभ सहर्ष स्वीकार कर प्राप्त कर लिये स्वेच्छिक सेवानिवृति आदेश विधिसम्मत है जिसमें कोई रदोबदल करने की गुंजाईश नहीं है, प्रार्थी ने स्वेच्छिक सेवानिवृति प्रार्थना-पत्र को पुनः उठाने हेतु कोई प्रार्थना-पत्र नहीं दिया, प्रार्थी के प्रकरण में औ.वि. अधिनियम के प्रावधान लागू नही होते, अप्रार्थी के किसी अधिकारी द्वारा प्रार्थी से खाली पन्नों पर कोई हस्ताक्षर नहीं करवाये गये। प्रार्थी अप्रार्थी से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है। प्रार्थी का माँग-पत्र सव्यय खारिज किया जावे।

प्रार्थी ने माँग-पत्र के समर्थन में स्वंय का शपथ-पत्र प्रस्तुत किया जिस पर अप्रार्थी प्रतिनिधी द्वारा जिरह की गई तथा अप्रार्थी की ओर से मंगलाराम का शपथ-पत्र प्रस्तुत किया जिस पर प्रार्थी प्रतिनिधी द्वारा जिरह की गई। प्रार्थी की ओर से विभिन्न दस्तावेज की प्रतियाँ पेश की गई।

दोनों पक्षों के प्रतिनिधीगण की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया है कि उसने 30-4-98 को स्वेच्छिक सेवानिवृति हेतु प्रार्थना-पत्र पेश किया परन्तु उसने 13-4-98 को ही इसे वापस ले लिया इसके बावजूद भी उसको 31-3-98 को सेवानिवृत कर दिया गया जो कि त्रुटीपूर्ण है।

विपक्षी द्वारा यह कहा गया कि 31-3-98 को ही सेवानिवृति चाही गई थी जो प्रदान की गई।

प्रार्थी द्वारा अपनी जिरह में यह कथन किया है कि उसने सेवानिवृति हेतु प्रार्थना-पत्र दिया था, लेकिन उसका यह कथन है कि यह उससे जबरदस्ती दिलवाया गया था, जबरदस्ती का कोई उल्लेख प्रार्थी द्वारा अपने शपथ-पत्र में नहीं किया गया है बल्कि उसका यह कथन है कि उसने शर्तों के अधीन स्वेच्छिक सेवानिवृति का प्रार्थना-पत्र दिया था।

विपक्षी का यह कथन है कि स्कीम के अनुरूप सेवानिवृति की गई है।

प्रार्थी द्वारा 12-1-98 को दिया गया सेवानिवृति का प्रार्थना-पत्र प्रदर्श-1 पेश हुआ है इसमें यह स्थिति स्पष्ट है कि सेवानिवृति 30-4-98 से चाही गई है, इसमें नीचे यह स्पष्ट उल्लेख भी है कि 30-4-98 से यह प्रभावी होगा ऐसी स्थिति में विपक्षी का यह कहना कि 31-3-98 से सेवानिवृति चाही गई है, पूरी तरह त्रुटीपूर्ण है। बहस के दौरान यह कहा गया है कि इसमें तारीख में काँट-छाँट की गई है यदि ऐसी स्थिति थी तो विपक्षी अपने यहाँ प्रस्तुत मूल प्रार्थना-पत्र न्यायालय के समक्ष पेश कर सकता था परन्तु मूल प्रार्थना-पत्र पेश नहीं किया गया है इससे ही यह उपधारणा होती है कि उसमें भी 30-4-98 की ही तारीख अंकित थी और इसी कारण मूल प्रार्थना-पत्र पेश नहीं किया गया।

प्रार्थी की ओर से प्रदर्श-2 प्रदर्श-3 प्रार्थना-पत्र भी पेश हुए हैं। प्रदर्श-2 प्रार्थना-पत्र में प्रार्थी द्वारा यह स्पष्ट किया गया है कि यदि उसकी बीस हजार रुपये देने की शर्त मन्जूर नहीं की जाती है तो उसका

प्रार्थना-पत्र स्वीकार नहीं किया जाए, यह प्रार्थना-पत्र विपक्षी को पाँच फरवरी को ही प्राप्त हो गया है। इस प्रकार प्रदर्श-3 द्वारा प्रार्थी ने अपना त्याग-पत्र वापस ले लिया है और यह प्रार्थना-पत्र भी विपक्षी को 3-4-1998 को ही प्राप्त हो गया। इस प्रकार प्रार्थी द्वारा अपनी सेवानिवृत्ति की दिनांक 30-4-1998 से पूर्व ही प्रदर्श-3 द्वारा अपना त्याग-पत्र वापस ले लिया था ऐसी स्थिति में विपक्षी को उसके त्याग-पत्र को स्वीकार करना पूरी तरह त्रुटीपूर्ण है। प्रदर्श-4 प्रार्थना-पत्र भी इसी क्रम में पेश हुआ है और प्रदर्श-5 नोटिस दिया गया है, प्रदर्श-6 द्वारा 31-3-1998 से त्याग-पत्र स्वीकार किया गया है परन्तु यह आदेश निःसन्देह ही त्रुटीपूर्ण है क्योंकि प्रार्थी द्वारा 30-4-1998 से सेवानिवृत्ति चाही गई थी और विपक्षी के अधिकार में यह नहीं था कि वह पूर्व की किसी तारीख से सेवानिवृत्ति स्वीकार कर ले।

इस प्रकार प्रस्तुत प्रकरण में यह स्थिति स्पष्ट है कि प्रार्थी द्वारा 30-4-1998 से सेवानिवृत्ति चाही गई थी, विपक्षी द्वारा इसे पहले से ही स्वीकार कर लिया गया, 30-4-1998 से पूर्व ही प्रार्थी ने अपना त्याग-पत्र वापस ले लिया था ऐसी स्थिति में उसकी सेवानिवृत्ति निःसन्देह ही अवैध और अनुचित है।

विपक्षी की ओर से एस.बी. सिविल रिट पिटीशन नम्बर 3650/98 अम्बाका बनाम आर.एस.एम.डी.सी. का विनिश्चय पेश हुआ जिसमें कहा गया है कि जहाँ सेवानिवृत्ति के लाभ प्राप्त कर लिये हैं तो सेवानिवृत्ति आदेश को चुनौती नहीं दी जा सकती परन्तु प्रस्तुत प्रकरण में स्थिति बिल्कुल भिन्न है। प्रस्तुत प्रकरण में विपक्षी द्वारा अवैध तौर पर सेवानिवृत्ति की गई है जब कि प्रार्थी ने सेवानिवृत्ति का प्रार्थना-पत्र वापस ले लिया था और तारीख के पूर्व ही सेवानिवृत्ति कर दी गई थी ऐसी स्थिति में उक्त विनिश्चय विपक्षी को कोई लाभ नहीं पहुंचता। विपक्षी की ओर से औद्योगिक विवाद सं. 11/2000 का इस न्यायालय का निर्णय पेश किया गया है परन्तु उक्त निर्णय प्रकरण के विशिष्ट तथ्यों के आधार पर दिया गया है उससे विपक्षी को कोई लाभ नहीं पहुंचता।

प्रार्थी की सेवामुक्ति 31-3-1998 को की गई जब कि यह रेफरेन्स श्रम मंत्रालय द्वारा इस न्यायालय को 17-8-2000 को प्रेषित किया गया, यह स्थिति भी सही है कि प्रार्थी ने 31-3-1998 के पश्चात् विपक्षी संस्थान में कोई कार्य नहीं किया है अतः समस्त तथ्यों एवं परिस्थितियों को देखते हुए प्रार्थी रेफरेन्स की तिथि 17-8-2000 से आदेश की पालना तक 25 प्रतिशत राशि पूर्वभृति के रूप में अप्रार्थी नियोजक से प्राप्त करेगा, यदि प्रार्थी द्वारा पूर्व में कोई राशि प्राप्त की है तो वह राशि पूर्वभृति की राशि में से समायोजित कर ली जावेगी।

अधिनिर्णय

अतः यह अधिनिर्णीत किया जाता है कि अप्रार्थी नियोजक राजस्थान स्टेट माईन्स एण्ड मिनरल्स लिमिटेड (आर.एस.एम.एम. लि.) द्वारा प्रार्थी श्रमिक श्री फकीराराम पुत्र श्री खुगलाराम मेघवाल निवासी गांव सोनु जिला जैसलमेर को 31-3-1998 से सेवापृथक (सेवानिवृत्त) करना अनुचित एवं अवैध है। अतः आदेशित किया जाता है कि अप्रार्थी नियोजक प्रार्थी को तुरन्त सेवा में पुनर्स्थापित करे, प्रार्थी की सेवाएँ निरन्तर मानी जावेगी, प्रार्थी को रेफरेन्स की तिथि 17-8-2000 से आदेश की पालना तक 25 प्रतिशत राशि पूर्वभृति के रूप में अप्रार्थी नियोजक से दिलाई जाती है, यदि प्रार्थी द्वारा पूर्व में कोई वेतन राशि प्राप्त की है तो वह राशि पूर्वभृति के राशि में से समायोजित कर ली जाए।

यह अधिनिर्णय आज दिनांक 10-10-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 26 फरवरी, 2004

का. आ. 697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. राज. स्टेट मिनरल डवलपमेंट कार्पो. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-2-2004 को प्राप्त हुआ था।

[सं. एल-29012/35/2000-आई.आर. (एम.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th February, 2004

S.O. 697.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Rajasthan State Mineral Development Corp. Ltd. and their workmen, which was received by the Central Government on 25-02-2004.

[No. L-29012/35/2000-IR(M)]

B.M. DAVID, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर

पीठासीन अधिकारी :— श्रीमती निशा गुप्ता आर.एच.जे.एस.

औ०वि० (केन्द्रीय) सं. :— 11/2001

किशनसिंह पुत्र श्री उग सिंह निवासी गाँव जोगा, जिला जैसलमेर।

.....प्रार्थी

बनाम

राजस्थान स्टेट माईन्स एण्ड मिनरल डेवलपमेन्ट कॉरपोरेशन लिमिटेड (आर..एस. एम. एम. लि.) .....अप्रार्थीगण

उपस्थिति

(1) प्रार्थी प्रतिनिधि : श्री एल.डी. खत्री उप.

(2) अप्रार्थी प्रतिनिधि : श्री खेमाराम उप.

अधिनिर्णय

दिनांक, 10 अक्टूबर, 2003

श्रम मंत्रालय भारत सरकार, नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 29012/35/2000 आई.आर. (एम.) दिनांक 18-8-2000 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

"Whether the termination of services of Shri Kishan Singh S/o Ug Singh, Ex. Sahayak Karamchari by the management of R.S.M.D.C.Ltd, Jaipur by way of Voluntary Retirement Scheme w.e.f. 31-3-98 is legal and justified and If not, to what relief is workman concerned entitled ?"

प्रार्थी ने अपना माँग-पत्र प्रस्तुत करते हुए अभिकथित किया कि अप्रार्थी ने अपनी सोनू स्थित लाईम स्टोन प्रोजेक्ट पर कार्य करने हेतु सन् 1989 में कर्मचारियों/श्रमिकों को आवश्यकता अनुसार आवेदन करने पर सेवा में रखा, प्रार्थी ने भी अपना आवेदन दिया जिस पर निगम ने उसे अपने अधीन आर.एम.डब्लू के पद पर अस्थाई तौर पर नियुक्त किया, प्रार्थी को उक्त पद पर नियमित करने हेतु 12-1-1993 को आदेश जारी किया गया, प्रार्थी को अधिनस्थ श्रमिकों से सही ढंग से काम लेने हेतु जमादार (मेट) के पद पर नियुक्त किया गया था, अप्रार्थी ने विभिन्न कर्मचारियों/श्रमिकों से स्वैच्छिक सेवानिवृत्ति योजना के अन्तर्गत प्रार्थना-पत्र मांगे थे जिस पर प्रार्थी ने अपनी कुछ शर्तों सहित 7-1-1998 को प्रार्थना-पत्र दिया लेकिन अप्रार्थी ने प्रार्थी के प्रार्थना-पत्र को सही ढंग से विवेचित नहीं करते हुए मन-माने तरीके से प्रार्थी की सेवाएँ समाप्त कर दीं तथा मेट के कार्य हेतु सभी परिलाभ नहीं दिये, इस प्रकार प्रार्थी द्वारा प्रस्तुत स्वैच्छिक सेवानिवृत्ति प्रार्थना-पत्र की आड़ में उसे त्याग-पत्र मांगकर प्रार्थी की सेवाएँ अवैधानिक रूप से समाप्त कर दीं, अप्रार्थी की खदानों पर कार्य चालू है तथा प्रार्थी को सेवामुक्त करने के पश्चात् नये श्रमिकों को सेवा में रखा इस प्रकार अप्रार्थी द्वारा धारा 25-जी एवं 25-एच का उल्लंघन किया गया है। प्रार्थी का कथन है कि स्वैच्छिक सेवानिवृत्ति प्रार्थना-पत्र में अंकित तिथि से पूर्व जब प्रार्थी ने अपना प्रार्थना-पत्र विड्रो कर लिया तब अप्रार्थी के पास कोई प्रार्थना-पत्र प्रार्थी का विचाराधीन ही नहीं था, अप्रार्थी ने प्रार्थी को गुमराह कर खाली पन्नों पर हस्ताक्षर करवाकर अवैधानिक रूप से सेवामुक्त कर दिया जो अनफेयर लेबर प्रेक्टिस की परिभाषा में आता है। अन्त में निवेदन किया है कि अप्रार्थी द्वारा प्रार्थी की सेवानिवृत्ति दिनांक 31-3-1998 को अवैधानिक घोषित किया जाकर प्रार्थी को लगातार सेवाओं में मानते हुए मिलने वाले समस्त लाभ दिलाये जावें।

अप्रार्थी की ओर से जवाब में कहा गया है कि प्रार्थी ने स्वैच्छिक सेवानिवृत्ति योजना को भली-भाँति समझने के पश्चात् बिना किसी दबाव के स्वैच्छा से स्वैच्छिक सेवानिवृत्ति हेतु 7-1-1998 को प्रार्थना-पत्र प्रस्तुत किया जिसको 15-1-1998 को स्वीकार कर प्रार्थी को 31-3-1998 से स्वैच्छिक सेवानिवृत्ति प्रदान कर कार्यमुक्त किया गया, प्रार्थी समस्त लाभों का भुगतान कर स्वैच्छिक सेवानिवृत्ति प्रदान की गई, प्रार्थी को कभी भी मेट के पद पर नियुक्ति नहीं दी गई अत: प्रार्थी मेट के पद का लाभ प्राप्त करने का अधिकारी नहीं है, प्रार्थी से अप्राथी द्वारा त्याग-पत्र नहीं माँगा गया न ही सेवाएँ अवैधानिक तरीके से समाप्त कीं, प्रार्थी को स्वैच्छिक सेवानिवृत्ति किया गया न कि सेवा से निकाला गया, प्रार्थी को सेवानिवृति के पश्चात् किसी भी श्रमिक को कार्य पर नहीं रखा गया अत: प्रार्थी के मामले में धारा 25-जी व 25-एच के प्रावधान लागू नहीं होते। यह भी कहा गया है कि स्वैच्छिक सेवानिवृत्ति आदेश में किसी तरह का रदोबदल करने की गुजांइश नहीं है, प्रार्थी द्वारा कोई विड्रोल प्रार्थना-पत्र पेश नहीं किया न ही अप्रार्थी के किसी अधिकारी द्वारा प्रार्थी से खाली पन्नों पर हस्ताक्षर करवाये। प्रार्थी अप्रार्थी से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है। अन्त में निवेदन किया है कि प्रार्थी का माँग-पत्र मय खर्चे खारिज किया जावे।

माँग-पत्र के समर्थन में स्वयं प्रार्थी ने अपना शपथ-पत्र प्रस्तुत किया जिसपर अप्रार्थी प्रतिनिधि द्वारा जिरह की गई तथा अप्रार्थी की ओर से मंगलाराम का शपथ-पत्र प्रस्तुत किया जिसपर प्रार्थी प्रतिनिधि द्वारा जिरह की गई। प्रार्थी की ओर से दस्तावेजी साक्ष्य में विभिन्न प्रपत्रों की प्रतियाँ पेश की गईं।

दोनों पक्षों के प्रतिनिधिगण की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया है कि उसने विपक्षी के अधीन लगातार काम किया, प्रार्थी ने स्वैच्छिक सेवानिवृत्ति योजना के अन्तर्गत शर्त सहित प्रार्थना-पत्र दिया था परन्तु उसको परिलाभ न देकर अवैधानिक रूप से उसकी सेवा समाप्त कर दी गई जो कि त्रुटिपूर्ण है।

विपक्षी द्वारा यह कहा गया कि प्रार्थी के स्वयं के प्रार्थना-पत्र पर स्वैच्छिक सेवानिवृत्ति की गई है जिसमें कोई त्रुटि नहीं है।

स्वयं प्रार्थी ने अपनी प्रतिपरीक्षा में यह स्वीकार किया है कि उसने 7-1-1998 को प्रार्थना-पत्र दिया था, अस्सी-नब्बे हजार रुपये रकम प्राप्त की थी परन्तु उसका यह कहना है कि शर्तों के अनुसार प्रार्थना-पत्र मन्जूर नहीं किया।

विपक्षी की ओर से मंगलाराम सहायक मैनेजर पेश हुए हैं जिनका यह कथन है कि प्रार्थना-पत्र के अनुरूप शर्तें पूरी कर दी गईं थीं।

प्रार्थी की ओर से कर्मचारियों की सूची पेश हुई है जिसका प्रस्तुत प्रकरण में कोई महत्व नहीं है। प्रार्थी की ओर से दिये गये स्वैच्छिक सेवा निवृत्ति प्रार्थना-पत्र की प्रति पेश हुई है, प्रमाण-पत्र पेश हुआ है, 28-3-1998 का आदेश पेश हुआ है जिससे स्पष्ट है कि प्रार्थी को 31-3-1998 को सेवानिवृत्त किया गया है।

प्रार्थी का यह कथन है कि प्रार्थना-पत्र में वर्णित उसकी शर्तें पूरी नहीं की थीं परन्तु कौन सी शर्त पूरी नहीं की गई, यह स्थिति स्पष्ट नहीं की गई है। प्रार्थना-पत्र में प्रार्थी द्वारा लाभ, उपार्जित अवकाश, वेतन आदि की राशि चाही गई है और स्वयं प्रार्थी ने यह स्वीकार किया है कि उसे अस्सी-नब्बे हज़ार रुपये की रकम प्राप्त हो गई है और पी.एफ. उसने खुद ने नहीं उठाया। इस प्रकार प्रार्थी द्वारा वर्णित शर्तों का पालन न किया गया हो ऐसी कोई स्थिति नहीं है। प्रार्थी की यह शर्त थी कि उसे सोनु खदान पर रखा जाए, स्वयं प्रार्थी ने अपनी प्रतिपरीक्षा में यह स्वीकार किया है कि वह सोनु माईन्स पर ही काम करता था। इस प्रकार प्रार्थी की किसी शर्त को नहीं माना गया हो ऐसी कोई स्थिति नहीं है।

इस प्रकार प्रार्थी द्वारा स्वैच्छा से सेवानिवृत्ति का प्रार्थना-पत्र पेश किया गया जिसे स्वीकार किया जाकर उसे सेवानिवृत्त किया गया है। प्रार्थी द्वारा सेवानिवृति के परिलाभ भी प्राप्त कर लिये गये हैं ऐसी स्थिति में विपक्षी द्वारा प्रस्तुत विनिश्चय एस.वी. सिविल रिट पिटीशन नम्बर 3650/98 अम्बावा बनाम आर.एस.एम.डी.सी. जिसमें माननीय राजस्थान उच्च न्यायालय द्वारा यह निर्धारित किय गया है कि जहाँ प्रार्थी ने सेवानिवृति के सम्बन्ध में परिलाभों को प्राप्त कर लिया है जो उसे सेवानिवृत्ति के .देश को चुनौती देने का कोई अधिकार नहीं है, प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है। विपक्षी की ओर से औद्योगिक विवाद सं. 11/2000 का इस न्यायालय का निर्णय पेश किया गया है परन्तु उक्त निर्णय प्रकरण के विशिष्ठ तथ्यों के आधार पर दिया गया है और उसे विपक्षी को कोई लाभ नहीं पहुँचता।

इस प्रकार प्रार्थी की स्वैच्छिक सेवानिवृत्ति योजना के अर्न्तगत की गई सेवानिवृत्ति पूरी तरह न्यायोचित है और प्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है।

अधिनिर्णय

अत: यह अधिनिर्णित किया जाता है कि प्रार्थी किशनसिंह पुत्र श्री उग सिंह निवासी गांव जोगा जिला जैसलमेर की स्वैच्छिक सेवानिवृत्ति योजना के अन्तर्गत की गई सेवानिवृत्ति पूरी तरह न्यायोचित है अत: प्रार्थी अप्रार्थी नियोजक राज.स्टेट माईन्स एण्ड मिनरल लि. (आर.एस.एम.एम. लि.) से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

यह अधिनिर्णय आज दिनांक 10-10-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 26 फरवरी, 2004

का. आ. 698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. मेघातुबुरू आयरन ओर माईन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नं. 2 के पंचाट (संदर्भ संख्या 6/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-2-2004 को प्राप्त हुआ था।

[सं. एल-26011/18/87-डी-III(बी)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 26th February, 2004

S. O. 698.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 6/98) of the Central Government Industrial Tribunal-cum-Labour Court-Dhanbad No. 2 now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Meghatuburu Iran Ore Mines and their workmen, which was received by the Central Government on 25-02-2004.

[No. L-26011/18/87-D-III(B)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRTBUNAL (No. 2) AT DHANBAD

PRESENT:

Shri B. Biswas,
Presiding Officer.

In the matter of complainant under Section 33A of the I.D. Act, 1947

COMPLAINT NO. 6 OF 1988

Ministry Order No. 1260011/18/87-D-III(B) dt. 6-11-1987

PARTIES: Balkas Bara son of Shri Barnabas Bara, daily rated Khalasi, Meghatuburu Iron Ore Project P.O. Meghatuburu, Distt. Singhbhum.

... Complainant

Versus

The employers in relation to the management of Meghatuburu Iron Ore Project/Mine of M/s. Steel Authority of India Ltd. P.O. Meghatuburu, Distt. Singhbhum.

... Opp. Party

State : Jharkhand Industry : Iron Ore.

Dated, the 4th February, 2004

AWARD

This is a complaint petition under Section 33A of the I.D. Act filed by the complainant named above, against the O.P. Management of Meghatuburu Iron Ore Project of M/s. Steel Authority of India Ltd.

In this case neither the complainant nor the opp. party appeared nor took any steps. It reveals from the record that the instant complaint petition is pending since 20-8-2001 and ample opportunities were given to them. But in spite of getting sufficient opportunities they failed to take any steps in the matter of hearing of the instant complaint case. Therefore, there is reason to believe that the parties are not interested to proceed further with the complaint case. Under the circumstances, the complaint petition is dismissed for default.

B. BISWAS, Presiding Officer.

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